

Exhibit C

June 22, 2020 Hearing Transcript

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE: : Case No. 20-30608-JCW
: (Jointly Administered)
ALDRICH PUMP LLC, ET AL., :
: Chapter 11
Debtors, :
: Charlotte, North Carolina
: Monday, June 22, 2020
: 2:14 p.m.

⋮ ⋮

ALDRICH PUMP LLC and MURRAY : AP 20-03041-JCW
BOILER LLC,

Plaintiffs,

V.

THOSE PARTIES TO ACTIONS
LISTED ON APPENDIX A TO
COMPLAINT and JOHN AND JANE
DOES 1-1000,

Defendants.

.

TRANSCRIPT OF EMERGENCY HEARING ON FIRST DAY PLEADINGS
BEFORE THE HONORABLE J. CRAIG WHITLEY,
UNITED STATES BANKRUPTCY JUDGE

Audio Operator: COURT PERSONNEL

Transcript prepared by: JANICE RUSSELL TRANSCRIPTS
1418 Red Fox Circle
Severance, CO 80550
(757) 422-9089
trussell31@tdsmail.com

Proceedings recorded by electronic sound recording; transcript produced by transcription service.

1 APPEARANCES (via video and telephone conference):

2
3 For the Debtors: Rayburn Cooper & Durham, P.A.
4 BY: JOHN R. MILLER, JR., ESQ.
227 West Trade St., Suite 1200
Charlotte, NC 28202

5 Jones Day
6 BY: DAVID S. TORBERG, ESQ.
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

7 Jones Day
8 BY: GENNA GHAUL, ESQ.
JAMES M. JONES, ESQ.
9 250 Vesey Street
New York, NY 10281

10 Jones Day
11 BY: BRAD B. ERENS, ESQ.
MARK A. CODY, ESQ.
12 CAITLIN K. CAHOW, ESQ.
77 West Wacker, Suite 3500
13 Chicago, IL 60601

14 Evert Weathersby Houff
15 BY: C. MICHAEL EVERT, JR., ESQ.
3455 Peachtree Road, NE, #1550
Atlanta, GA 30326

16 For Certain Asbestos
17 Claimants: Caplin & Drysdale
BY: KEVIN MACLAY, ESQ.
TODD PHILLIPS, ESQ.
18 One Thomas Circle, NW, Suite 1100
Washington, DC 20005

19 Robinson & Cole LLP
20 BY: NATALIE D. RAMSEY, ESQ.
DAVIS LEE WRIGHT, ESQ.
21 JAMIE L. EDMONSON, ESQ.
1201 N. Market Street, Suite 1406
22 Wilmington, DE 19801

23 Robinson & Cole LLP
24 BY: LAURIE A. KREPTO, ESQ.
1650 Market Street, Suite 3600
Philadelphia, PA 19103
25

1 APPEARANCES (via video and telephone conference continued):
2 For Certain Asbestos Claimants: Maune Raichle
3 BY: MARCUS RAICHLE, JR., ESQ.
4 CHRIS McKEAN, ESQ.
5 1015 Locust Street, Suite 1200
6 St. Louis, MO 63101
7
8 Essex Richards, P.A.
9 BY: HEATHER W. CULP, ESQ.
10 1701 South Boulevard
11 Charlotte, NC 28203
12
13 Winston & Strawn LLP
14 BY: DAVID NEIER, ESQ.
15 200 Park Avenue
16 New York, NY 10166-4193
17
18 For _____: Windels Marx
19 BY: ANDREW CRAIG, ESQ.
20 One Giralda Farms
21 Madison, NJ 07940
22
23 For Trane Technologies Company LLC and Trane U.S. Inc.: McCarter & English, LLP
24 BY: GREGORY J. MASCITTI, ESQ.
25 825 Eighth Avenue, 31st Floor
New York, NY 10019

Burt & Cordes, PLLC
BY: STACY C. CORDES, ESQ.
122 Cherokee Road, Suite 1
Charlotte, NC 28207

For Richard and Calvena Sisk: JD Thompson Law
BY: LINDA W. SIMPSON, ESQ.
P. O. Box 33127
Charlotte, NC 28233

Kazan McClain
BY: STEVEN KAZAN, ESQ.
55 Harrison St. Suite 400
Oakland, CA 94607

For Bankruptcy Administrator: SHELLEY ABEL
402 W. Trade Street, Suite 200
Charlotte, NC 28202-1669

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

Cross

WITNESSES FOR THE
CLAIMANTS:

Ray Pittard	115
Allan Tananbaum	122

EXHIBITS:

Marked

Received

Declarations of Ray Pittard
and Allan Tananbaum

73

1 P R O C E E D I N G S

2 (Call to Order of the Court)

3 THE COURT: Have a seat.

4 We're -- for those who haven't met me, I'm Judge
5 Whitley. We're here in Aldrich Pump and Murray Boiler for
6 first day hearings. We're having to do this by a combination
7 of videoconferencing and teleconferencing and I understand
8 y'all've already had some technical issues. In addition to
9 whatever the computer might do to everyone, let me also say
10 that if you hear pumping in the background, it is neither your
11 heart rate nor the computer, but instead, construction going on
12 immediately behind us on the annex. The building staff decided
13 today would be a good day to start running a jackhammer and
14 we'll have some extraneous noise. So we'll do the best we can.

15 Let -- before we get going, let me see who we have
16 appearing. If you're just listening in and don't need to
17 announce, I don't need to hear from you. But otherwise, what
18 I'd like to do is start with those who are appearing by video
19 and ask those parties to announce not only their own
20 appearances, but anyone else that is representing the same
21 client. And then I'll go to those appearing telephonically and
22 needing to announce and from there, if we miss anyone, then
23 I'll call for others.

24 Ground rules, generally speaking, if you are not
25 speaking -- I'm a little reluctant to say this considering the

1 problems that you were having a moment ago -- but if you are
2 not speaking, generally, I want you to mute your, your
3 microphones. Please don't put us on hold. Don't interrupt
4 other speakers. I'll give everyone a full chance to, to speak
5 today. And otherwise, if you get knocked off, try to get back
6 on the line and if not, make a, a note of the time so that we
7 know when you were missing and we'll try to do the best we can.

8 But the bottom line is if some of you have multiple
9 attorneys in the case, we may have to go to your secondary
10 attorney if we can't get you back on the line.

11 So with that, we'll give it a go.

12 Starting out, I understand, Mr. Miller, Jack Miller,
13 you're here on behalf of, of the debtors in possession?

14 MR. MILLER: Yes, your Honor. Thank you.

15 THE COURT: All right.

16 Also, Mr. Rayburn, is he appearing?

17 (No response)

18 THE COURT: Mr. Gordon? Greg Gordon's on the line?

19 (No response)

20 THE COURT: No.

21 Brad Erens?

22 MR. ERENS: Yes, your Honor. Brad Erens, E-R-E-N-S,
23 of Jones Day on behalf of the debtors. Thank you.

24 THE COURT: Okay. Thank you.

25 Let's see. We had Glenn Thompson? Mr. Thompson on

1 the line?

2 (No response)

3 THE COURT: Stacy Cordes?

4 MS. CORDES: Good afternoon, your Honor. I'm --
5 I'm --

6 THE COURT: I see you.

7 MS. CORDES: Yes.

8 THE COURT: Okay. Got anyone else that you need to
9 announce for?

10 MS. CORDES: Stacy Cordes on behalf of Trane
11 Technologies Company LLC and Trane U.S. Inc. and on the Zoom
12 call with me is Greg Mascitti. I'm local counsel and he can
13 announce for himself.

14 MR. MASCITTI: Greg Mascitti, McCarter & English, on
15 behalf of Trane Technologies Company LLC and Trane U.S. Inc.

16 THE COURT: Okay. Thank you.

17 MR. MASCITTI: Good afternoon, your Honor.

18 THE COURT: All right.

19 I believe that -- anyone else on the videoconference
20 that I don't have, already?

21 (No response)

22 THE COURT: Okay.

23 MS. SIMPSON: Linda Simpson.

24 THE COURT: Okay.

25 MS. SIMPSON: I'll be on behalf of the Sisks --

1 THE COURT: All right.

2 MS. SIMPSON: -- personal injury claimants --

3 THE COURT: Uh-huh (indicating an affirmative
4 response).

5 MS. SIMPSON: -- and Steven Kazan is also on for,
6 listening.

7 THE COURT: Okay.

8 Anyone else on the video?

9 All right. Appearing --

10 MS. ABEL: Shelley Abel, Bankruptcy Administrator.

11 THE COURT: Very good, thank you.

12 MR. CODY: Your Honor, Mark Cody here on behalf of the
13 debtors as well from Jones Day.

14 MS. CAHOW: And good afternoon, your Honor. Caitlin
15 Cahow, Jones Day, on behalf of the debtors.

16 THE COURT: Anyone else on the video?

17 (No response)

18 THE COURT: All right. Telephonically, I understood
19 there were a number of other Jones Day attorneys on, on behalf
20 of the debtor.

21 Mr. Torberg, are you with us? Torberg?

22 (No response)

23 THE COURT: Ms. Cahow has already said something.

24 Genna Ghaul? Ghaul? Ghaul?

25 MS. GHAUL: Yes, your Honor. Genna Ghaul of Jones

1 Day.

2 THE COURT: All right, very good.

3 And let's see. Mr. Evert, Michael Evert?

4 MR. EVERT: Yes, your Honor.

5 THE COURT: All right.

6 And Matthew Tomsic?

7 (No response)

8 THE COURT: All right.

9 And then other telephonics. I'm showing Steven Kazan

10 Mr. Kazan, who are you representing? You can unmute

11 if --

12 MR. KAZAN: Your Honor, I'm with Linda Simpson on

13 behalf of our clients, the Sisks.

14 THE COURT: Thank you.

15 Mr. Parrish, Felton Parrish?

16 (No response)

17 THE COURT: Mr. Parrish is not on.

18 Andrew Craig? Mr. Craig?

19 MR. CRAIG: I'm on the video, your Honor.

20 THE COURT: Okay. Sorry. I got these so quickly --

21 MR. CRAIG: Sorry about that.

22 THE COURT: -- I wasn't paying attention to who was

23 announcing where, so.

24 Marcus Raichle?

25 (No response)

1 THE COURT: No.

2 MR. RAICHLE: I apologize. I had a little trouble
3 turning off my mute.

4 I'm being repre -- my clients are represented by
5 Natalie Ramsey and Kevin Macclay of Robinson & Cole and Caplin &
6 Drysdale.

7 THE COURT: Okay, very good.

8 Chris McKean?

9 MR. RAICHLE: He's with me.

10 THE COURT: Okay.

11 Heather Culp?

12 MR. RAICHLE: Here as well.

13 THE COURT: Okay.

14 Mr. David McGonigle, K&L Gates? Mr. McGonigle?

15 (No response)

16 THE COURT: Ashley Surinak?

17 (No response)

18 THE COURT: No.

19 Jamie Edmonson?

20 MS. EDMONSON: Yes, your Honor. I represent
21 Mr. Raichle's clients with Ms. Ramsey and Mr. Macclay.

22 THE COURT: All right. We got a lot of feedback.
23 Could you try that one more time?

24 MS. EDMONSON: Yes, I'll try, your Honor. Jamie
25 Edmonson, Robinson & Cole. I represent Mr. Raichle's clients

1 with Ms. Ramsey and Mr. Maclay.

2 THE COURT: Laurie Krepto, Krepto?

3 MS. KREPTO: Your Honor, this is Laurie Krepto and I'm
4 with Jamie Edmonson and Natalie Ramsey with the Robinson & Cole
5 firm.

6 THE COURT: Very good.

7 Rob Jordan?

8 MR. JORDAN: Yes, yes, your Honor. I'm here.

9 THE COURT: Okay. And, Mr. Jordan, are you with the
10 same group?

11 MR. JORDAN: I am with KCC, the claims agent.

12 THE COURT: Very good, thank you.

13 Ms. Ramsey, we've already gotten you.

14 Mr. Maclay?

15 MR. MACLAY: Yes, your Honor. Obviously, I'm here
16 from Caplin & Drysdale, along with, with Natalie and, and Dave
17 Neier from Winston. With me on the phone, but he's muted so he
18 can't speak up is Todd Phillips.

19 THE COURT: Okay, very good.

20 David Neier, Neier?

21 MR. NEIER: Good afternoon, your Honor. David Neier
22 on behalf of the same clients as Ms. Ramsey and Mr. Maclay.

23 THE COURT: Okay, very good.

24 Ms. Abel, we already got.

25 James Jones?

1 MR. JONES: Here, your Honor. I'm with Jones Day as
2 well.

3 THE COURT: Okay, very good.

4 And Michael Brockland?

5 (No response)

6 THE COURT: Okay.

7 Are there others on the line that need to announce
8 appearances? If you're just listening to the, to the hearing
9 and don't anticipate speaking or representing anyone, I don't
10 need an announcement.

11 But are there any others on the telephone line?

12 MR. MILLER: Your Honor, this is Jack Miller. I know
13 Mr. Torberg, you called his name and he didn't respond, but I
14 do know he's on.

15 THE COURT: Okay, very good.

16 MR. TORBERG: Yes, I am on, your Honor.

17 THE COURT: Excellent.

18 MR. TORBERG: Can you hear me now?

19 THE COURT: Yes, sir.

20 MR. TORBERG: Okay, thank you.

21 THE COURT: Anyone else?

22 (No response)

23 THE COURT: Okay, very good.

24 First day motions. I suppose I ought to turn -- who's
25 going to be speaking on behalf of the debtor, debtors, at this

1 moment in the case?

2 MR. MILLER: Your Honor, this is Jack Miller. I, I
3 was going to start it off and then I'll hand things off to
4 Mr. Erens, if that's okay with the Court.

5 THE COURT: Please.

6 MR. MILLER: All right. Afternoon, your Honor. Jack
7 Miller, Rayburn Cooper & Durham, on behalf of the debtors,
8 Aldrich Pump LLC and Murray Boiler LLC.

9 THE COURT: Uh-huh (indicating an affirmative
10 response).

11 MR. MILLER: First off, thank you very, very much for
12 the Court's accommodation this afternoon. I think the Court
13 knows we always do appreciate the Court's flexibility in
14 scheduling us in here.

15 THE COURT: Uh-huh (indicating an affirmative
16 response).

17 MR. MILLER: Your Honor, as I said, the, the folks
18 with Jones Day are going to be handling the first days. I
19 think Mr. Erens is going to, is going to kick it off with a
20 little bit of background and then turn it over to Mr. Cody and
21 Ms. Cahow to, to handle the administrative first day pleadings
22 and then it'll probably go back to Mr. Erens to deal with the
23 adversary proceeding.

24 And so with that, your Honor, it's my pleasure to
25 introduce those three to the Court and look forward to, to

1 working with them. Thank you, your Honor.

2 THE COURT: All right.

3 Mr. Erens?

4 MR. ERENS: Thank you, your Honor. Yes, Brad Erens,
5 again, E-R-E-N-S, of Jones Day on behalf of the debtors.

6 As Mr. Miller indicated, we did want to give a little
7 bit of background in this case before we got into the first day
8 motions, in particular, the corporate history, some of the
9 product history, the asbestos litigation that's led us to come
10 to this Court, and then our ultimate plans for this chapter 11
11 proceeding.

12 If you don't mind, your Honor, I just wanted to pin
13 the video so I can see, your Honor as well. Thank you. Okay.

14 As Mr. Miller indicated, there are two debtors,
15 Aldrich Pump and Murray Boiler. The reason there are two
16 debtors in this case is, historically, for this corporate
17 family there were two legal entities that, that were the
18 subject of asbestos claims in the tort system. Those two
19 entities now today are Aldrich Pump and Murray Boiler. Both
20 companies are indirect wholly-owned subsidiaries of Trane
21 Technologies plc, that's a publicly traded company. The
22 headquarters of Trane Technologies as well as the debtors,
23 Aldrich and Murray, are in Davidson, North Carolina.

24 So again, it's not just Trane. The debtors'
25 headquarters are up the road in Davidson, North Carolina. So

1 we're happy to be, your Honor, in the neighborhood in a local
2 court and the companies' executives are, are nearby the Court.
3 The debtors have filed these chapter 11 cases, your Honor, to
4 address unrelenting burden of asbestos claims that have been
5 pursued against them for many, many years at this point.

6 Let start off with some products history. The
7 debtors, I think it's important to note, never used asbestos to
8 manufacture a product. Rather, historically, going back a
9 couple of decades now, more than a couple decades, the debtors
10 made equipment that, in some instances, incorporated asbestos-
11 containing components manufactured and designed by third
12 parties. I should mention, your Honor, most, if not all, of
13 what I'm going to say is in our Information Brief that we filed
14 on the first day, but I wanted to do this to highlight some
15 items for purposes of this court hearing.

16 So let's start with debtor, Aldrich. Aldrich's
17 asbestos litigation history largely surrounds its manufacture
18 of pumps and compressors that incorporated metal piping through
19 which liquids or gases flowed. And I think it's important to
20 understand the product, your Honor. I won't spend a lot of
21 time on this, but where the pipes in the equipment connected to
22 each other or to metal surfaces leaks could occur and as a
23 result a ring-shaped sealing product known as a gasket was
24 inserted into the connection between the pipes or between the
25 pipes and the metal surfaces to avoid such leaks and to protect

1 against sealing failures that, your Honor, could be quite
2 serious. If you have high temperature liquids or high volume
3 liquids or gases, a leak could cause serious illness -- excuse
4 me -- serious injury, death, or catastrophic losses. The
5 gaskets, most importantly, spent their entire lives inserted
6 between the two pieces of metal, either the pipes or the pipe
7 and the metal surfaces, except when the equipment needed
8 repair.

9 So that's the product, mostly, that Aldrich has been
10 involved with. Until about, roughly, 30 years ago certain
11 gaskets, not all gaskets, but certain gaskets available in the
12 marketplace contained asbestos. In nearly all instances, the
13 type of asbestos fiber used in the gaskets purchased by
14 Aldrich, again from third parties, was chrysotile, a form of
15 asbestos that I think is widely recognized as either incapable
16 of causing, or certainly far less likely to cause disease than
17 fibers such as amphiboles. And any asbestos fibers contained
18 in the gaskets were fully encapsulated. So this was not a
19 friable product.

20 So the gaskets were inserted between the pipes, the
21 gaskets themselves were chrysotile, and the gaskets were
22 encapsulated in terms of the asbestos contained. On rare
23 occasions when the gaskets might be disturbed to conduct
24 equipment repairs, any potential exposure to the asbestos
25 fibers was well below government's permissible exposure levels

1 for asbestos. That's the basic history that we have with
2 respect to Aldrich.

3 With respect to Murray, there's a significant amount
4 of overlap. So Murray's asbestos claims primarily have arisen
5 from the sale of heating and cooling equipment that also
6 incorporated gaskets or other sealing products for the exact
7 same reasons that Aldrich did, to prevent leaks. Various parts
8 of Murray's operations that incorporated such sealing products
9 were either shut down or sold or, largely, eliminated the use
10 of asbestos-containing gaskets sometime during the 1970s or the
11 1980s. There is one other product that's relevant from Murray
12 before, roughly, the mid-1950s. So, you know, almost 70 years
13 ago now, your Honor. Murray also designed and sold some
14 boilers that may have been insulated with external, external
15 asbestos-containing insulation. Like the gaskets, Murray did
16 not manufacture that insulation. It was manufactured by third
17 parties. And again, this now goes back almost 70 years. So
18 that's the basic product history.

19 I want to talk a little bit about mesothelioma claims
20 in the tort system and what I think your Honor's probably
21 familiar with, which is the bankruptcy wave that occurred now
22 about 20 years ago, around 2000. Asbestos litigation today in
23 the tort system is dominated by claims for individuals
24 asserting mesothelioma. Exposure to certain types of friable
25 amphibole asbestos, such as existed in certain insulation and

1 other asbestos-containing products manufactured mostly before
2 the mid-1970s, can cause mesothelioma. However, whether
3 mesothelioma can be caused by exposure to chrysotile asbestos
4 at all and what, how much intensity or how much exposure really
5 is, continues to be a source of scientific debate, but there is
6 consensus, we believe, your Honor, that chrysotile is far less
7 toxic than the amphiboles. Further, in many individuals,
8 mesothelioma can occur without exposure to occupational
9 products.

10 So, No. 1, mesothelioma can occur from exposure to
11 friable amphibole asbestos products, but mesothelioma can also
12 occur from exposure to other products and mesothelioma,
13 frankly, can occur as a result to exposure to any products. In
14 fact, there's a growing science that mesothelioma occurs in
15 certain people for reasons that are, again, unrelated to
16 occupational exposure and that's a, a greater, larger
17 percentage today of mesothelioma cases.

18 So mesothelioma will continue in the future, your
19 Honor, even though occupational exposures are now decades into
20 the past.

21 In terms of the, the bankruptcy wave, through the 19,
22 late 1990s the primary defendants in the tort system were the
23 miners and sellers of raw asbestos and companies that used
24 asbestos to manufacture other products, again like thermal
25 insulation. And those primary defendants paid hundreds of

1 millions of dollars annually to resolve mesothelioma claims and
2 other asbestos-related claims. What we think is very important
3 to understand, your Honor, is during that same period, roughly
4 the 15 years between the mid-80s when Aldrich and Murray
5 started being sued and the beginning of the bankruptcy wave --
6 so roughly, 1985 to 19, up to 2000 -- excuse me -- Aldrich and
7 Murray collectively paid during that period \$4 million for 15
8 years to settle mesothelioma claims brought against them.
9 Again, the primary defendants at that time were paying hundreds
10 of millions of dollars.

11 But by the early 2000s, virtually all the primary
12 defendants had filed for bankruptcy and exited the tort system.
13 They would -- these defendants would establish trusts that
14 would have tens of billions of dollars to pay claimants, but
15 almost immediately, we believe, individual claims began to
16 curtail disclosure in their tort cases of their overall
17 asbestos exposures. Claims against the debtors, along with
18 settlement and trial demands, began to be made as if the
19 primary defendants had never existed, exposure to their
20 products had never occurred, and recovery against the primary
21 defendants, who were now in bankruptcy, was not available
22 through the bankruptcy trusts.

23 Within a few years the number of claims against
24 Aldrich and Murray skyrocketed and soon after the beginning of
25 the bankruptcy wave Aldrich and Murray were receiving, roughly,

1 2500 mesothelioma claims per year.

2 And, your Honor, we throw out that number, it's just a
3 number, but if you think about it, that's a claim every hour of
4 every day of every week during the year. It is a deluge of
5 mesothelioma claims. The debtors were now being named in the
6 vast majority of all mesothelioma claims across the country
7 which, in their mind, was sort of inconceivable, given the
8 encapsulated nature of their chrysotile product and gaskets
9 inserted between metal pipes in equipment and the fact that, of
10 course, during the period of time prior to the 1970s there were
11 thousands of asbestos-containing products in the marketplace.
12 It wasn't just gaskets. It wasn't even just thermal
13 insulation.

14 So that got, that gets us to a point where Aldrich and
15 Murray are now in the tort system postbankruptcy. What did
16 that mean for them? Well, one fact of the tort system is that
17 every asbestos suit is an individual case. It's just the fact
18 of life. There's no class action system in the tort system for
19 asbestos claims. So defending a single mesothelioma claim can
20 cost a defendant almost \$1 million or sometimes more if taken
21 fully to trial. If you think about the math, if Aldrich and
22 Murray were getting 2500 claims per year, taking every case to
23 trial, not that they would do that, but just doing the math,
24 2500 times 1 million would be billions of dollars in defense
25 costs, obviously not something they could do. And again, the

1 claims against them had now undergone undeniable change.
2 Before the primary defendants -- excuse me -- before the
3 primary defendants' exodus from the tort system, ancillary
4 defendants like the debtors could reliably expect that the
5 asbestos claimants would identify exposures to amphibole
6 products of the primary defendants. Juries would see that the
7 products of the amphibole manufacturers were the primary cause
8 of disease and now that evidence was largely gone from the tort
9 system because the primary defendants had filed for bankruptcy.

10 We think, your Honor, Judge Hodges' seminal case in,
11 or seminal decision in the Garlock case details all this
12 history and detailed a widespread pattern on the part of
13 plaintiffs not to divulge any longer the full exposures that
14 they had had in their occupational periods. They would not any
15 longer fully divulge the fact that they were exposed to
16 amphibole insulation or other products of companies that were
17 now in bankruptcy. While claimants would assert exposures only
18 to the products of the defendants now in the tort system, that
19 meant that the debtors -- excuse me -- the companies now in the
20 tort system faced a very difficult situation. The primary
21 defendants were no longer there to pay the lion's share of the
22 liability and the court and the jury only saw the remaining
23 non-bankrupt defendants.

24 We think, your Honor, that the debtors were subject to
25 all the same practices, I'll call them, in the tort system that

1 came to light in the Garlock case and those cases were, you
2 know, a complete picture of the claimants' exposure history was
3 available, the inconsequential contribution of the debtors'
4 equipment to the claimants' asbestos exposure was self-evident
5 when compared to the claimants' exposures to friable thermal
6 insulation that inevitably caused their disease. But again,
7 the primary defendants were no longer available.

8 So the plaintiffs' failure to divulge that evidence
9 left the debtors with the need to either incur staggering legal
10 expenses to develop that, develop that exposure evidence, which
11 is very difficult to do, or just simply resolve claims to avoid
12 those legal fees and the risk at trial that there was an
13 incomplete picture in front of the jury. The debtors do detail
14 in the Information Brief that we filed cases where they have
15 found, specific cases where we have found we've been subject to
16 those practices just based on the Garlock outline. Discovery
17 in this case could obviously produce many more examples.

18 So that was the situation that Aldrich and Murray
19 would find themselves now in the post-bankruptcy wave in the
20 tort system. So what became their defense strategy?

21 Well, cost of defense is, of course, of necessity, a
22 critical factor when considering how to resolve a claim. On
23 average, the debtors found that plaintiffs were willing to
24 accept, roughly, on average, mid-five figures to resolve a
25 mesothelioma claim. We think that's a recognition that

1 plaintiffs weren't asserting that Aldrich and Murray were truly
2 the cause of mesothelioma because, as your Honor may be aware,
3 actual liability for a mesothelioma claim can be a multi-
4 million dollar affair. But the more important point, I
5 suppose, your Honor, is mid-five figures is a small fraction of
6 the cost of taking a case all the way to trial. Again, as
7 indicated, taking one mesothelioma case to trial could cost a
8 million dollars or more.

9 So a mid-five figure settlement obviously made sense
10 in many circumstances for the debtor to avoid the cost of
11 taking a case fully to trial and also to avoid the situation
12 where you could be in front of the jury with an incomplete
13 picture because the primary defendants were no longer in the
14 tort system. All told, the debtors roughly resolved 99 percent
15 of their claims where they actually made a payment for less
16 than \$250,000, an amount, again, that is still a small fraction
17 of the cost that it would have taken in terms of the legal fees
18 to get a case to trial.

19 So that was, overall, the debtors' defense strategy
20 for a period of time and it seemed fine, your Honor, if at some
21 point the process was going to end, but the problem that the
22 debtors have today is even settlements in the mid-five figure
23 range still mean the debtors are spending about a hundred
24 million dollars a year in the tort system, roughly \$70 million
25 in indemnity and \$25 million in defense costs. So that's,

1 roughly, a hundred million dollars per year. Given that the
2 equipment that they manufactured decades ago or given that the
3 equipment that had asbestos-containing products was
4 manufactured decades ago, one would expect that the number of
5 mesothelioma claims would go down over time. It would go down
6 precipitously, but that just has not occurred. Instead,
7 debtors continually get, roughly, 2500 claims, 2,000 to 2500
8 claims every year like clockwork, every hour of every day of
9 every week, year after year. And as I said before, your Honor,
10 mesothelioma is here to stay, even if it's not associated with
11 occupational exposure. There will be mesothelioma cases going
12 on for some period of time. If this high level of mesothelioma
13 claims continue, it will remain cheaper for the debtors to pay
14 modest settlements to resolve claims than to spend the very
15 significant legal costs of taking those cases to trial and this
16 process will go on year after year after year, many expect for
17 at least three, maybe four more decades, at which point the
18 debtors will have been involved in asbestos litigation for 70
19 years, your Honor. At this point they, the debtors, have paid,
20 roughly, \$1.3 billion in total indemnity for asbestos claims
21 from inception and \$600 million in defense costs. That's
22 before insurance recoveries. They currently have pending 8200,
23 roughly, mesothelioma claims and, roughly, 100,000 total
24 claims, close to, maybe, 40 percent of which are actually on
25 inactive dockets or in inactive cases.

1 So with that situation, where the debtors found that
2 they were just receiving thousands of mesothelioma and other
3 claims every year and were forced for the reasons mentioned to
4 often just settle those claims because it was much more
5 expensive to take them to trial or to otherwise deal with them,
6 they decided it made sense to start thinking about a more
7 rational, or a rational way to deal with what was, again,
8 becoming a 70-year litigation. The debtors have filed these
9 chapter 11 cases to instead achieve a rational resolution of
10 the asbestos litigation through the statute that Congress
11 created, section 524(g), to reach exactly that result. The
12 tort system in many ways, your Honor, is not even beneficial
13 for claimants. There have been studies shown that of the costs
14 that defendants spend in the tort system, roughly, or I would
15 at least say less than half the spending that was on the
16 defense side actually goes to claimants. A lot of the money is
17 spent on defense fees and other things. A lot of the money
18 does not find its way into the hands of the actual claimants.
19 Instead, 524(g)'s collective process provides the best
20 mechanism to do a holistic and global resolution of the
21 situation in front of us. The debtors intend to fund a section
22 524(g) asbestos trust in an amount that will fully compensate
23 all legitimate claimants and the claimants will then have an
24 administrative process rather than the tort system. They'll
25 have access to a trust where they can file claims and quickly

1 receive compensation once they show sufficient medical and
2 exposure criteria. They will avoid the cost and delay of
3 litigation and will, hopefully, be able to recover much more
4 quickly than they have been able to in the tort system to date.
5 The debtors are committed to achieving this result as soon as
6 possible, that is, a section 524(g) trust that has been
7 negotiated with the representatives of the asbestos claimants.

8 With that, I do want to mention a couple other things
9 and then get to the motions. As I think your Honor is aware,
10 this is what we might call a divisional merger case, same type
11 of situation as in DBMP. Once it was decided that a 524(g)
12 result might be a better option than the tort system, two
13 divisional mergers were accomplished on May 1, 2020. Two
14 companies at the time had the asbestos claims asserted against
15 them. Those two companies -- there's been a lot of name
16 changes, but I'm going to give you the names that make the most
17 sense. Trane Technologies Company LLC and Trane U.S. Inc. were
18 two companies that had asbestos claims against them. Those two
19 companies underwent divisional mergers. The companies ceased
20 to exist and two new companies were created, the New Trane
21 Technologies Company LLC and then debtor, Aldrich, became
22 debtor Aldrich, and then Trane U.S. Inc. is the other company
23 that had asbestos claims against it. It did a, it did a
24 divisional merger. It ceased to exist and two new companies
25 were created, Trane U.S. Inc., the New Trane U.S. Inc. and then

1 Murray which, again, became the debtor in this case. All this
2 is spelled out in the declaration of Ray Pittard, the
3 companies' Chief Restructuring Officer. There's also a
4 corporate chart that lays this out a little bit more
5 specifically.

6 In the divisional merger -- I'll take the Aldrich side
7 as an example -- Aldrich was allocated a certain amount of
8 cash, a hundred percent interest in an operating company, and a
9 substantial amount of insurance. I haven't mentioned insurance
10 to date, your Honor --

11 THE COURT: Uh-huh (indicating an affirmative
12 response).

13 MR. ERENS: -- but both these companies have
14 substantial insurance assets. In the case of Aldrich,
15 insurance with a sort of a nominal amount, for lack of a better
16 word, of \$750 million. The asbestos liability was allocated to
17 Aldrich. All the other assets and liabilities were allocated
18 to New Trane Technologies Company.

19 Same situation on the Murray side. Murray is
20 allocated a certain amount of cash, a substantial amount of
21 insurance, and also a hundred percent interest in an operating
22 subsidiary. It was allocated the asbestos liability and New
23 Trane U.S. Inc. was allocated the other assets and liabilities.

24 Most importantly, as is the case in DBMP and the other
25 divisional merger cases, each of the debtors was a recipient of

1 a funding agreement and there was an objection filed this
2 morning by certain representatives of the plaintiffs that talk
3 about the funding agreement. I think we'll be talking about
4 that more when we get to the preliminary injunction phase of
5 this proceeding, but I wanted to point out a couple of things.

6 So the funding agreements are uncapped obligations of
7 the two relevant nondebtors to provide funding for the case and
8 for a 524(g) asbestos resolution of the case, as set forth in
9 the agreements. There are allocations [sic] in the pleadings
10 that were filed this morning that provisions of the funding
11 agreements in this case somehow divested the Court of
12 jurisdiction for approval of that 524(g) result or otherwise
13 had some untoward purpose. And I want to make it clear, your
14 Honor, that is absolutely not the case. There were two
15 provisions that were pointed to and I'll explain them quickly
16 right now, but the facts I will talk about in the preliminary
17 injunction.

18 One provision simply provides that at the end of the
19 day when the non-debtor payor under the funding agreement funds
20 whatever may be necessary based on the deal between the debtors
21 and the claimants, that the funder will get a 524(g)
22 injunction. Your Honor, that's the way all cases work. It
23 would be illogical to believe that a deal would be cut where a
24 third party would fund whatever was agreed to among the
25 parties, would provide that money into a 524(g) trust, and then

1 after confirmation could still be chased for more money. That,
2 that is illogical, not the way any of these cases have ever
3 worked, and is simply a clarification of what everybody
4 understands, which is once there's a deal the funder will pay
5 the amount in and will get a 524(g) injunction.

6 Similarly, there was a statement that the funding
7 agreement expires on, upon the effective date of the plan when
8 the funding occurs. The same, same point, your Honor. Once a
9 deal is reached, the, the party under the funding agreement
10 will pay in whatever the deal is and then will be released from
11 the funding obligation. There was a point that, well, that
12 would prevent the defunding over time under the funding
13 agreement. The parties, of course, could always agree that the
14 funding will go in not all in the front of the case or at the
15 beginning of the, the trust or at confirmation, but over a
16 period of years thereafter. That can always be negotiated,
17 your Honor. We would think the plaintiffs would actually want
18 the money upfront but if they wanted it over time, that's
19 simply something that can be discussed at the time.

20 So there was no attempt through those provisions,
21 which I think are just clarifications, in the funding agreement
22 to do anything other than what is typically done in funding
23 agreements in other cases which is provide the exact same
24 paying power to the asbestos claimants in these cases and the
25 exact same assets available to them that they had prior to the

1 divisional mergers.

2 Finally, your Honor, I wanted to go quickly into the
3 plan for the case. This is at the end of the Information
4 Brief. I won't spend a lot of time on it. But, your Honor,
5 most importantly, we're ready to deal. We want to get these
6 cases moving. We want to get a result as soon as possible.
7 There's allegations in the objections that were filed that we
8 want to, that we want to drag out this case. Quite the
9 contrary. We are ready to sit down with the representatives of
10 the plaintiffs and talk about all issues as soon as possible.

11 The first step in the case, though, is the preliminary
12 injunction and I won't go into the specifics, as I'm sure we'll
13 be spending a lot of time on that later in the case. Soon, the
14 ACC will be formed, the Asbestos Claimants' Committee. We will
15 sit down immediately with them and talk about various issues,
16 including information we'll need in the case and as well about
17 how to reach resolution upon a future claims representative.
18 We'll get a future claims representative appointed and then
19 we'll have both the representatives of other claimants, current
20 and future, to sit down and talk about how this case is going
21 to proceed. Again, I'm sure they'll want lots of information
22 and we're ready to proceed with them.

23 But we do, also, at the same time want to move the
24 case forward, your Honor, and ultimately, these cases have a
25 lot to do with just the determination of what the liability in

1 the case really is. That is, fundamentally, the big dispute in
2 these cases and while we're willing to negotiate at any time
3 with the current and future representatives, to the extent
4 we're not able to reach a deal upfront, we would like to move
5 the process to an estimation or some other type of liability
6 determination process so that the case will not linger and
7 we'll get promptly to some type of result on the backend. Once
8 that process unfolds and is resolved or settled, however it
9 comes out in the case, hopefully, there's a deal between the
10 debtor and the representatives of the claimants. We can both
11 negotiate, document, and solicit a plan and then we can exit
12 your Honor's court.

13 So we would like to move the cases as quickly as
14 possible. We know we've got a lot of work in front of us, but
15 we are committed to doing so and we are committed to run this
16 case as promptly as possible.

17 So with that, your Honor, unless you have any
18 questions, I would turn to Mr. Cody to start the presentation
19 on the motions to be heard today.

20 THE COURT: Hold on for --

21 MR. MACLAY: Your Honor?

22 THE COURT: Hold on for a moment. Let me see if
23 anyone else wants to make an opening statement.

24 Mr. Maclay?

25 MR. MACLAY: Absolutely, your Honor. I certainly do.

1 And let me just clarify for your Honor as a convenience sort of
2 the breakdown that you'll be hearing today from the Certain
3 Asbestos Claimants.

4 THE COURT: Uh-huh (indicating an affirmative
5 response).

6 MR. MACLAY: I will be addressing these overview
7 comments that we've just heard from the debtor; my colleague,
8 Natalie Ramsey, will be addressing the TRO/PI motion in detail;
9 and my colleague, Dave Neier, will be handling the debtors'
10 declarations and any cross-examinations that are necessary.

11 So that's how we have whacked it up, your Honor, to
12 make this as efficient as possible, given, obviously, the short
13 time that we've had to prepare.

14 THE COURT: Okay.

15 MR. MACLAY: So, so to start, your Honor, I am here,
16 as are my colleagues, on behalf of the asbestos victims
17 represented by 15 law firms identified in our papers and in the
18 related joinder. Those firms are, would be familiar to your
19 Honor as they also represent, in, in most cases, committee
20 members in Kaiser, Bestwall, CertainTeed, or some combination
21 of the three, and it is certainly clear, your Honor, that we're
22 starting to see a pattern emerge in how cases that are being
23 presented to your Honor in the workup before the bankruptcy
24 filings. It's starting to have some similarities, although as
25 we pointed out in our brief, also some important differences.

1 But before getting into that, your Honor, there are some basic
2 points that were made by debtors' counsel that need to be
3 discussed.

4 You heard from debtors' counsel about what I would
5 characterize, your Honor, as the chrysotile defense and the
6 encapsulation defense --

7 THE COURT: Uh-huh (indicating an affirmative
8 response).

9 MR. MACLAY: -- arguments that, although they paid, by
10 my count, \$1.9 billion before this filing, somehow they're just
11 not really that responsible. That's an argument that they make
12 and lose in the state court system all the time and that's why
13 they're here, but the reality is your Honor should not give
14 credence to the concept that someone who has paid \$1.9 billion,
15 whom debtors' counsel just told you it's about a, a hundred
16 million per year now, doesn't have substantial asbestos
17 liability. Of course they do.

18 And, your Honor, it is not the, the province of this
19 Court nor an appropriate use of bankruptcy to come into
20 bankruptcy to argue that the state tort system is flawed, that
21 it doesn't work, and that it's unfair. The state tort system
22 is what it is. It is under our country's separation of powers
23 the institution that deals with liabilities for mass torts.
24 And so whatever the debtors' purposes of coming here were --
25 and we'll talk about those more -- certainly the idea that they

1 could ask this Court to ignore and wipe out state court results
2 under the state laws is certainly inappropriate and would be
3 unprecedented if accepted and the various arguments made about
4 chrysotile and encapsulation defense, those are arguments, your
5 Honor, properly made to the state courts, as they have been,
6 again, as I mentioned, unsuccessfully.

7 Now, your Honor, they talk a bit, really, in two
8 different, somewhat inconsistent ways about their vision of the
9 case. On the one hand, they talk about how they're, they're
10 willing to deal. They have come here to work something out
11 with the claimants. Your Honor, a debtor that wants to work
12 things out with the claimants -- and this is, you know, the
13 subject of a whole lot of precedent out there -- does something
14 that's called a prenegotiated or prepack plan. They reach out
15 to the constituents, they get their respective experts
16 together, and they analyze what the liability should be and if
17 they work out a mutual understanding that's consistent with
18 what they think would happen in the tort system, they file the
19 case consensually.

20 What they have done here is quite different. They
21 have engaged in what we have called for you before the "Texas
22 two step," a very, frankly, transparent attempt to separate
23 assets from liabilities in a way that numerous laws, we
24 believe, would preclude being effectuated in bankruptcy. And
25 so this is not a case in which the debtor has indicated in

1 their Information Brief, or otherwise, that this is an actual
2 attempt to resolve their asbestos obligations in any sort of
3 consensual fashion.

4 Instead, the other thing that they said, which,
5 frankly, I would pay a lot more attention to, your Honor, it's
6 a discussion of (inaudible) and, and how they would like this
7 case to proceed with respect to an estimation if they can't
8 get, presumably, whatever sweetheart deal they think they could
9 get because of the leverage that they think they have gained
10 through their corporate organizational package.

11 But as your Honor knows, first of all, as your Honor
12 has said, the Garlock decision was written narrowly, but has
13 been interpreted broadly and that's exactly what they're doing
14 here, your Honor. They trying to interpret Garlock broadly.
15 They're trying to take, you know, 15 out of hundreds of
16 thousands of cases and try to ask you to draw conclusions from
17 them, even though the underlying plaintiffs and their attorneys
18 weren't even parties to that proceeding.

19 But even more fundamentally, your Honor, besides the
20 unfairness of attempting to draw conclusions about the entire
21 state tort system with respect to a different set of debtors
22 and a different context, the other thing to keep in mind about
23 Garlock was that case took seven years. It took hundreds of
24 millions of dollars in professionals' fees. They had an
25 estimation proceeding which was ultimately irrelevant to the

1 final settlement, which was, as your Honor knows, four times
2 higher as much as, you know, the debtor was effectively capable
3 of paying. And so the idea that is a useful path to take, an
4 appropriate path to take, it isn't, your Honor. It has already
5 been shown to not be an appropriate path to take.

6 And so, really, what we should be focusing on here,
7 your Honor, is how it is that the debtors are attempting to
8 skew the normal bankruptcy procedures and processes and the
9 normal bankruptcy law to disadvantage asbestos claimants and to
10 advantage themselves. As your Honor knows, this is now the
11 third time that you have seen a transaction employed to
12 separate assets from liabilities so as a previously non-
13 existent debtor from a solvent entity in the context of an
14 asbestos bankruptcy. And, your Honor, you're familiar with the
15 other two, but just to say them for the record, Georgia-Pacific
16 gave rise to Bestwall, currently pending before Judge Beyer,
17 and CertainTeed gave rise to DBMP, currently pending before
18 your Honor. Now Trane has done it. They've created these two
19 debtors, Aldrich Pump and Murray Boiler.

20 Your Honor, today, we are on the precipice of allowing
21 what is supposed to be extraordinary relief, relief of
22 injunction, and previously unprecedented under circumstances
23 like these to become the standard operating procedure in the
24 Western District. We are concerned that, now that this pattern
25 has emerged and become clear, that it is important that we, we

1 put a stop to it, your Honor, now before this trend continues
2 and, and exacerbates the already existing harm.

3 Now let's think about the corporate transaction that
4 you heard described by the debtors' counsel for a minute, your
5 Honor. Why bother with all these corporate machinations if the
6 entity who holds the valuable assets is the one who will be
7 paying for these asbestos obligations in full, anyway? The
8 answer, your Honor, when you think about it, is clear. It's to
9 pose an obstacle to the ability of asbestos claimants. It's to
10 hinder, delay, and defraud them, to put that another way.
11 These cases are all about impending relief for the non-debtor
12 parents, the ones that got the assets, and that has been made
13 expressly clear by the structure of the funding agreement,
14 which is even more explicit here than it was in the other two
15 cases. It's even changed in a very fundamental way by
16 conditioning their funding of the debtors' liabilities on the
17 type of relief you only get under 524(g) and, and only those
18 parents get it.

19 You heard, your Honor, by the way, something to the
20 effect of that's the way all these cases work. No, it isn't,
21 your Honor. Just a couple of months ago, the Septo (phonetic)
22 bankruptcy was confirmed and it, and it did not include a
23 contribution from, or protections for, any of the debtor's
24 affiliates. And, of course, what they're really saying is they
25 get to protect the assets of these nondebtors, even though

1 those nondebtors have chosen to keep those assets out of
2 bankruptcy, even though they have chosen to, essentially, have
3 their cake and eat it, too, by putting the -- the -- only the
4 liabilities into bankruptcy, but keeping the assets out. That
5 is what your Honor recognized was unusual in the CertainTeed
6 case at the beginning and it's become not only unusual, in
7 general, but even more inappropriate as it's become clear how
8 these procedures are actually being implemented to disadvantage
9 asbestos claimants. It's an attempt to gain inappropriate
10 leverage, your Honor, and it's very evident, if you looked at
11 Paragraph 13 in the first day declaration, you'd see that the,
12 the debtors described the purpose of the restructuring
13 transaction as being to avoid "unnecessarily subjecting the
14 entire Old IRNJ and Old Trane Enterprises and their many
15 employees, suppliers, vendors, and creditors to a chapter 11
16 proceeding." In other words, your Honor, for the debtors'
17 affiliates with nearly all the assets, full steam ahead, but
18 for the asbestos creditors, full stop. It is an attempt to
19 have all the benefits of bankruptcy accrued to the non-debtor
20 affiliates and all the detriments of bankruptcy fall upon the
21 innocent asbestos victims.

22 And it is important to know that what they are seeking
23 to do here is to have those non-debtor entities permanently rid
24 themselves of liability for their past actions and to provide a
25 windfall, your Honor, to shareholders, but, of course, the

1 debtors concede that many of these creditors have mesothelioma
2 and always fear fatal cancer. Timely compensation for victims
3 like that can make the difference between a more or less
4 comfortable end of life. It, it is certainly just not
5 equitable, your Honor, for the debtors' machinations
6 prepetition to enable them to keep the assets separated from
7 the liabilities to get the benefits of bankruptcy, but not its
8 detriments. That's not the way the system is supposed to work
9 and, of course, my colleague, as I mentioned, Natalie Ramsey,
10 is going to be going through the legal test for a TRO and why
11 it's not met here in some detail.

12 But just a very general point, your Honor, is the fact
13 that if the debtor were able to accomplish here what they seek
14 to accomplish and be able to not only gain the protections of
15 the automatic stay and injunctive relief, but they would skirt
16 essential bankruptcy court protections for creditors, such as
17 debtor transparency, court supervision, and the absolute
18 priority rule. They would be free to give dividends to their
19 shareholders, upstream cash to affiliates, and then, of course,
20 ultimately, seek a substantial bankruptcy discount from the
21 asbestos victims who are, whose claims are frozen while the
22 debtor goes about its business -- well, the nondebtor,
23 actually, more importantly -- go about their business as, as
24 prepetition.

25 Your Honor, in closing from this opening statement, it

1 is axiomatic that a person seeking equitable relief has to do
2 equity and the debtors' conduct in separating the principal
3 operating assets from their asbestos liability and seeking to
4 confer the benefits of bankruptcy without the attendant burden
5 for nondebtors is inherently unfair and inequitable and as my
6 colleague, Ms. Ramsey, will further explain in detail, under
7 the specific governing principles of law and equity this Court
8 should deny the requested TRO today.

9 Thank you.

10 THE COURT: There was another group of claimants.
11 Ms. Simpson, did you have anything you, you folks wanted to
12 say?

13 MS. SIMPSON: Your Honor, I don't believe we need to
14 make an opening statement at this point. I'll reserve. Thank
15 you.

16 THE COURT: Anyone else?

17 (No response)

18 THE COURT: Okay. Let's go to the, to the agenda and
19 see what we have to talk about today.

20 Back to the debtor. Mr. Erens?

21 MS. CAHOW: Good afternoon. Again, for the record,
22 your Honor, this is Caitlin Cahow of Jones Day on behalf of the
23 debtors.

24 THE COURT: Okay.

25 MS. CAHOW: And before we get started, I'll be taking

1 the Court through the first three motions on the agenda and
2 I'll turn to my colleague, Mr. Cody, to take Items 4 and 5.

3 And this doesn't, this doesn't directly affect the
4 first couple of motions on here, but I just want to make sure
5 that your Honor was able to get a copy of the revised agenda
6 that was filed shortly before the hearing.

7 THE COURT: I did. I've managed to misplace it here
8 in the last couple minutes, but as soon as I get back to where
9 we were, let's see. I have too many papers.

10 Thank you. All right. Now we're good.

11 Ms. Cahow?

12 MS. CAHOW: Thank you, your Honor.

13 So unless you would prefer a different order, I'm
14 happy to take these in the order they appear on the agenda.

15 THE COURT: I have no preference.

16 How about the others? Anyone else?

17 (No response)

18 THE COURT: Let's start at the top, then.

19 MS. CAHOW: Great.

20 So, your Honor, Item No. 1 on the agenda is the joint
21 administration motion.

22 THE COURT: Uh-huh (indicating an affirmative
23 response).

24 MS. CAHOW: And by this motion debtors are seeking
25 joint administration of their cases for procedural purposes

1 only.

2 THE COURT: Uh-huh (indicating an affirmative
3 response).

4 MS. CAHOW: That's pursuant to Rule 1015(b) and Local
5 Bankruptcy Rule 1015-1.

6 Debtors also propose a consolidated case caption and
7 request that the Court find that the proposed caption satisfies
8 the requirements of section 342(c)(1).

9 Your Honor, we believe that the relief will provide
10 various benefits related to administrative efficiency and that
11 the rights of the parties won't be prejudiced. This motion
12 does not seek substantive consolidation of the debtors'
13 estates.

14 We believe this to be a fairly straightforward request
15 for relief and unless your Honor has any questions, we would
16 ask that the Court grant the motion.

17 THE COURT: Let me ask. Do -- are there other parties
18 that wish to weigh in on this particular motion?

19 (No response)

20 THE COURT: Perhaps what I should have said first --

21 MS. RAMSEY: Your Honor, on behalf --

22 THE COURT: Yes. Ms. Ramsey?

23 MS. RAMSEY: Oh, I'm sorry.

24 THE COURT: Go ahead.

25 MS. RAMSEY: Thank you, your Honor. Natalie Ramsey

1 for the Certain Asbestos Claimants.

2 Your Honor, we would only ask your Honor for an
3 opportunity for any official committee that is appointed to
4 weigh in on this motion. It is not clear to us at this point
5 in time whether there are sufficient overlapping issues and
6 overlapping assets, that it would make sense to have these
7 cases jointly administered.

8 THE COURT: Okay.

9 What I was going to say before that was the -- I
10 should have asked. We have a, a first day declaration. Is
11 anyone opposed to treating that as the, the direct examination
12 of the debtors' witnesses, witness or witnesses, depending, and
13 then allowing cross-examination if there's a desire to do so?
14 Pretty much standard procedure, I think, in these types of
15 cases.

16 (No response)

17 THE COURT: I don't hear anyone objecting. So we're
18 going to allow that right out of the gate and then if there's a
19 request for other evidence, please let me know on a particular
20 motion.

21 Anyone else on this motion?

22 MS. ABEL: Your Honor, this is --

23 THE COURT: Ms. Abel, uh-huh.

24 MS. ABEL: Sorry, your Honor. This is Shelley Abel.

25 In furtherance to the comment that was made by

1 Ms. Ramsey, I just wanted to let the Court know that I spoke
2 with the debtors' representatives earlier today and had asked
3 that we enter an order that might provide the ACC, once it is
4 formed, to revisit any of the orders that are entered today or
5 those that have been entered on an ex parte basis on a,
6 previously, so as to permit them an opportunity to review
7 those, even if the committee is formed past the normal 14-day
8 response --

9 THE COURT: Uh-huh (indicating an affirmative
10 response).

11 MS. ABEL: -- period.

12 So we would just note that request and we have
13 preliminary agree, preliminarily agreed that we would enter
14 into some sort of consent order that we would submit to the
15 Court that would address that concern.

16 THE COURT: Ms. Cahow?

17 MS. CAHOW: And, your Honor, that's correct. And
18 we're --

19 THE COURT: I'm sorry? We -- you, you said something.
20 We lost you.

21 MS. CAHOW: We're --

22 THE COURT: One moment. Looks like we're having tech
23 issues.

24 MS. CAHOW: I think I'm back, your Honor. Let me --

25 THE COURT: And froze again.

1 (Pause)

2 MR. LAMB: She's dropping.

3 THE COURT: Okay.

4 MS. CAHOW: I, I think I'm back. Is that, that
5 working?

6 THE COURT: Yes, it is.

7 MS. CAHOW: Wonderful. Thank you, your Honor.

8 And what I was about to say is that we, we did, in
9 fact, speak with Ms. Abel and we're happy to (indiscernible).

10 THE COURT: All right.

11 And, and as always, when we enter ex parte orders of
12 these first day hearings, we normally under Local Rule reserve
13 14 days for those who might not have gotten the news that we
14 were here to take a look at them and seek reconsideration as
15 well.

16 But otherwise, anyone else opposed to this particular
17 motion, joint administration?

18 (No response)

19 THE COURT: That is approved on an interim basis and
20 subject to the criteria we just announced. All right.

21 MS. CAHOW: Thank you, your Honor.

22 The next item on the agenda is the application to
23 retain and employ Kurtzman Carson Consultants LLC, or KCC, as
24 claims, noticing, and ballot agent in these cases.

25 THE COURT: Uh-huh (indicating an affirmative

1 response) .

2 MS. CAHOW: And as Mr. Erens alluded to and as your
3 Honor would have read in our papers, the debtors anticipate
4 these cases will involve many thousands of potential creditors
5 and other parties in interest and in light of the significant
6 administrative burdens that that would place on the Court and
7 the clerk's office and, and also the debtors, we believe that
8 having a claims, noticing, and ballot agent in the cases, in
9 these cases is appropriate and, and, in fact, necessary.

10 THE COURT: Uh-huh (indicating an affirmative
11 response) .

12 MS. CAHOW: And as your Honor is no doubt aware, this
13 is fairly typical relief in large cases to relieve the clerk's
14 office, in particular, of administrative duties. We also
15 believe that appointment of KCC will expedite service,
16 streamline the claims and solicitation processes and generally
17 promote administrative efficiency.

18 So we filed this application pursuant to 28 U.S.C.
19 156(b), which, as the Court is aware, empowers the Court to
20 authorize the use of outside agents and facilities for
21 administrative purposes.

22 Rule 2002 also allows the Court to direct other
23 parties to give notice.

24 So we believe there's ample authority to request the
25 relief.

1 The KCC service agreement is attached as Exhibit A to
2 the application. Paragraph 10 of the application also
3 discusses the services that KCC may perform in these cases and
4 it goes into some detail, your Honor, and I'm happy to go into
5 as much detail as you'd like, or just give a general overview.
6 I'm guessing your Honor has seen a few of these requests
7 before.

8 THE COURT: Uh-huh (indicating an affirmative
9 response).

10 MS. CAHOW: Generally, KCC will be able to assist with
11 serving notices, maintaining service lists and claims
12 registers, providing balloting and tabulation services,
13 including a tabulation certification (indiscernible). They'll
14 also be able to assist further administrative functions. In
15 fact, KCC maintains a website that's currently live and
16 available now so that interested parties can access information
17 and download documents filed in these cases free of charge.

18 The debtors are seeking to pay for these services in
19 the ordinary course of business. We would have KCC's fees and
20 expenses treated as administrative expenses in these cases.

21 So while the, while KCC would not file fee
22 applications, KCC would provide invoices both to debtors and to
23 the Bankruptcy Administrator so that the Bankruptcy
24 Administrator can see those costs. And as required by 28
25 U.S.C. 156(b), of course, the debtors will pay all of the costs

1 of KCC's services.

2 This is laid out in the application, but I did want to
3 flag for the Court that KCC is holding a \$60,000 pre-petition
4 retainer --

5 THE COURT: Uh-huh (indicating an affirmative
6 response).

7 MS. CAHOW: -- and our application does request that
8 KCC be authorized to hold on to that retainer throughout these
9 cases. We spoke about this briefly with Ms. Abel this morning
10 and we believe this to be consistent with similar relief
11 granted in this District.

12 I also would note, your Honor, that though we are not
13 seeking retention under 327, KCC did file a declaration in
14 support of the application --

15 THE COURT: Uh-huh (indicating an affirmative
16 response).

17 MS. CAHOW: -- and that declaration can be found at
18 Exhibit B to the application and it was signed by Robert
19 Jordan, who is a Senior Managing Director of Corporate
20 Restructuring Services at KCC, and you'll see Mr. Jordan is
21 available on this Zoom call to the extent that your Honor has
22 any questions.

23 THE COURT: Okay.

24 Others? Anyone --

25 MS. CAHOW: I --

1 THE COURT: -- want to weigh in on this?

2 (No response)

3 THE COURT: Everyone good with this motion?

4 (No response)

5 THE COURT: Okay.

6 MS. ABEL: Your Honor, no objection from the

7 Bankruptcy Administrator's Office.

8 THE COURT: All right.

9 Given the number of participants, don't tell me if you
10 don't object. I just need to hear if you want to ask questions
11 or, or weigh in on the, on the motions.

12 Anyone else?

13 (No response)

14 THE COURT: Okay. This one is approved.

15 MS. CAHOW: Thank you, your Honor.

16 THE COURT: Thank you.

17 MS. CAHOW: Item No. 3 on the agenda is a motion that
18 really seeks four buckets of relief and this is fairly standard
19 relief, we think.

20 First is authority to file a consolidated master list
21 of creditors. The second is authority of file what we define
22 in the motion as the top asbestos counsel list in lieu of the
23 typical Top 20 List for each debtor. We also seek approval of
24 certain notice procedures for asbestos claimants and approval
25 of the form and manner of notice of the commencement of these

1 cases.

2 So each of the forms of relief requested in the motion
3 is likely familiar to your Honor. It's similar to what your
4 Honor would have seen in Kaiser and DBMP.

5 With respect to the consolidated creditors list, the
6 debtors believe that the relief will further administrative
7 efficiency and is generally appropriate under the circumstances
8 in these cases.

9 With respect to the request regarding the top asbestos
10 counsel list, what we're seeking here, your Honor -- and it's,
11 it's spelled out in greater detail in our, in our papers -- is
12 we're seeking to file a consolidated list of 20 law firms with
13 significant representations of parties with asbestos claims
14 against the debtors and that would be in lieu of lists of the
15 creditors that have the 20 largest unsecured claims against
16 each debtor and given the nature of the cases and the fact that
17 the overwhelming majority of the debtors' creditors are
18 asbestos claimants, we anticipate that an asbestos committee
19 will be formed. We spoke, again, briefly this morning with
20 Ms. Abel to that effect. We do not believe that a separate
21 general unsecured creditors' committee will be formed in these
22 cases.

23 And so with that in mind, we believe the top asbestos
24 counsel list will be more helpful to the Bankruptcy
25 Administrator and will provide the information necessary to

1 evaluate and form an asbestos committee representative of the
2 claimants of each of the debtors in these cases. And we laid
3 out a few of these facts in the motion, your Honor, but just to
4 give a few examples. The top asbestos counsel list consists of
5 the 20 law firms representing the largest number of claimants
6 in asbestos lawsuits in which the debtors are defendants. And
7 collectively, the law firms on this list represent claims in
8 over 80 percent of those lawsuits.

9 So there is substantial overall representation on the
10 list. If you were to break that out by debtor, if you were to
11 try to put together a Top 20 List for each debtor, 16 of the 20
12 law firms that represent the most asbestos claimants in
13 lawsuits against Aldrich and 17 of the 20 law firms that
14 represent the most asbestos claimants in lawsuits against
15 Murray appear on the top asbestos counsel list that we filed
16 with the petition.

17 So there's significant overlap and also representation
18 between the debtors. And, just more generally, these firms
19 represent claimants across the various types of alleged harms
20 that are asserted by claimants. And so that really is, for
21 example, mesothelioma, lung cancer, etc.

22 So, in general, we, we believe this list to be very
23 representative of the claimants in these cases.

24 The third bucket of relief, somewhat relatedly, the
25 debtors are seeking authority to serve asbestos claimants in

1 care of their counsel, again similar to relief that you would
2 have seen in DBMP and Kaiser. And we believe that this type of
3 service is consistent both with what the law requires and also,
4 our responsibilities under the Rules of Professional Conduct.
5 This is also consistent with the debtors' past practices. As
6 indicated in our papers, debtors may not have or be able to
7 obtain current contact information for the individual
8 claimants.

9 So we believe that serving claimants through counsel
10 will just be a more efficient, reliable, and appropriate form
11 of relief in these cases. And in that regard, we've also
12 listed counsel contact information on the creditor matrix. So
13 it's consistent there and, indeed, our, our service that went
14 out for this first day hearing was to counsel for the asbestos
15 claimants consistent with other requested relief.

16 And then the last form of request for relief is
17 approval of the case commencement notice. We saw that your
18 Honor already entered the notice suspending entry --

19 THE COURT: Uh-huh (indicating an affirmative
20 response).

21 MS. CAHOW: -- and service of the standard notice of
22 commencement, but we attached our proposed form of notice as
23 Exhibit A to the motion and that form is based off of the
24 official form, but there are a, a couple of (indiscernible) for
25 purposes of this, of these cases and really, subject to a

1 signoff from the Bankruptcy Administrator -- and we didn't
2 quite get the chance to talk about that this morning when we
3 spoke, but I'm sure we'll have the opportunity to do that
4 shortly -- we would propose to serve this notice out within
5 five business days after we have the information regarding the
6 341 meeting that's required for the notice.

7 And so that, that covers the four buckets of relief.
8 So unless your Honor or anyone else has questions, we would ask
9 that the Court grant the requested relief.

10 THE COURT: Anyone else want to weigh in on this
11 particular motion?

12 MS. RAMSEY: Yes, your Honor. Hi. Again, it's
13 Natalie Ramsey for the Certain Asbestos Claimants.

14 Your Honor, we heard some clarification on the record
15 today that they had responded to questions that we had, but we
16 did take note that the language of the petition itself with
17 respect to the, to the list of 20 law firms was rather unusual
18 in that there was no representation regarding how those firms
19 were selected. It simply was referred to as a list of 20 law
20 firms with significant representations of asbestos claimants.
21 Based upon the representation, if, if that is correct that
22 those firms are, indeed, the firms that represent the largest
23 number of pending claimants, we would not expect that we would
24 have an objection, but -- but it was -- it was something that
25 caught our eye and also was something that some of our clients

1 questioned.

2 So I did want to raise for the record that we would
3 expect that a committee would want an opportunity to ensure
4 that, in fact, the firms are representative of, as indicated by
5 the debtors.

6 THE COURT: Okay.

7 Anyone else?

8 MS. ABEL: To that --

9 THE COURT: Yes.

10 MS. ABEL: Your Honor, this is Shelley Abel.

11 To that point, I have requested from the debtor to
12 receive a comprehensive listing in a more usable format than
13 that was provided in the adversary proceeding so that I can
14 review those, the pending claims against the debtor in order to
15 sort of assess the selection of the top 20 law firms that were
16 provided.

17 And I expect that there may be an opportunity for
18 further discussion in connection with a motion to appoint the
19 ACC in this case.

20 THE COURT: Anyone else?

21 (No response)

22 THE COURT: Back to you, Ms. Cahow. Is that -- I
23 think I read what was stated in the, in the declaration that,
24 that these were, in fact, the firms that represented 80 percent
25 of the clients if it wasn't stated in the petition, is that

1 correct? It was in the declaration, originally? I saw it
2 somewhere.

3 MS. CAHOW: Yes. It's in the language -- that
4 language itself is in the motion as well, your Honor.

5 THE COURT: Okay. But that is, in fact, the debtors'
6 representation?

7 MS. CAHOW: Yes, your Honor. That's correct. And I
8 believe -- and I, I apologize to Ms. Ramsey if, if this is not
9 the case -- but I believe that the language regarding -- let me
10 just flip to the appropriate paragraph here. Paragraph 11 of
11 the motion, your Honor, and my recollection was that the
12 language included with the petition so that the top asbestos
13 counsel list consisted of the 20 law firms representing the
14 largest number of claimants in asbestos lawsuits in which the
15 debtors were defendants.

16 THE COURT: Uh-huh (indicating an affirmative
17 response).

18 MS. CAHOW: But I can, I can go back and double check
19 that.

20 THE COURT: Ms. Ramsey, is that sufficient?

21 MS. CAHOW: If it did not, we intended, we intended to
22 do that.

23 THE COURT: Okay.

24 Ms. Ramsey, are you satisfied for present --

25 MS. RAMSEY: Yes, your --

1 THE COURT: -- purposes?

2 MS. RAMSEY: I'm sorry, your Honor. We had trouble
3 unmuting.

4 Yes, your Honor. Thank you.

5 THE COURT: Well, don't feel badly. We've been doing
6 this for a couple months now and everyone seems to have that
7 problem about muting and unmuting the microphones.

8 All right. Anyone else?

9 (No response)

10 THE COURT: If not, the motion is approved. If you'll
11 send me a proposed order on that.

12 MS. CAHOW: Thank you very much, your Honor.

13 And with that, I will turn things over to my
14 colleague, Mark Cody, who will address the remaining main case
15 agenda items.

16 THE COURT: Mr. Cody.

17 MR. CODY: Good afternoon, your Honor.

18 THE COURT: Afternoon.

19 MR. CODY: It's Mark Cody on behalf, on behalf of the
20 debtors here from Jones Day.

21 The next item on the agenda, your Honor, is Agenda
22 Item No. 4, which is the debtors' motion for entry of an order
23 establishing certain case management procedures. By the
24 motion, your Honor, what we're, what we're seeking to do is, is
25 approve and implement certain notice, case management, and

1 administrative procedures to, effectively, establish various
2 requirements for filing and serving papers filed in these
3 chapter 11 cases --

4 THE COURT: Uh-huh (indicating an affirmative
5 response).

6 MR. CODY: -- as well as orders entered in these
7 cases --

8 THE COURT: Uh-huh (indicating an affirmative
9 response).

10 MR. CODY: -- set standards for notices of hearings
11 and agendas, fix periodic omnibus hearing dates and provide
12 mandatory guidelines for scheduling hearings and setting
13 various deadlines as well as to minimize, ultimately, to
14 minimize the potential burdens on the Court by limiting matters
15 that are otherwise required to be heard by the Court.

16 The debtors believe that the case management
17 procedures will facilitate the efficient administration of
18 these chapter 11 cases and ensure that appropriate notice is
19 provided to interested parties.

20 We intend to serve the case management procedures on
21 all interested parties as soon as practicable after the entry
22 of the case management order, should you approve it; publish it
23 on the debtors' restructuring website at, with KCC; and then
24 make them available upon request with our claims and noticing
25 agent, Kurtzman Carson Consultants.

1 The ultimate goal here is to figure out a way to, to
2 alleviate significant administrative burdens and cost that
3 otherwise could be imposed on the debtors' estates, parties in
4 interest, the Court, and the Clerk of the Court due to the
5 substantial number of parties in interest expected to be
6 involved in these cases and the number of court filings that we
7 would anticipate as well. Significantly, your Honor, the case
8 management procedures do not seek to waive any substantive
9 rights of any of the parties in these chapter 11 cases.

10 Similarly, the courts, courts in this District have
11 regularly granted similar relief, including in, in, most
12 recently, in DBMP.

13 Your Honor, the, a copy of the proposed case
14 management procedures are attached to, to the proposed order.
15 Unless your Honor has any questions, we'd respectfully request
16 that the Court enter an order approving the motion.

17 THE COURT: Okay.

18 Others?

19 (No response)

20 THE COURT: Anyone?

21 (No response)

22 THE COURT: I notice there are blanks for omnibus
23 hearing dates that we still need to talk about. What do you
24 envision there, Mr. Cody? What are the, the debtors' needs?

25 MR. CODY: You know, your Honor, we can, we can

1 discuss this now or it might make sense to wait till after
2 we've had -- heard from -- about the, the PI. So maybe we
3 could do these --

4 THE COURT: Uh-huh (indicating an affirmative
5 response).

6 MR. CODY: -- the -- whatever is required in that
7 particular pleading that we have those together. I think,
8 after that, we would anticipate maybe at the outset a once-a-
9 month to sort of coincide with, with other activity in, in
10 these cases. To the extent that a matter, a hearing time is
11 not needed, then we would just consult --

12 THE COURT: Right.

13 MR. CODY: -- with the Court and then cancel the
14 hearing.

15 THE COURT: Okay.

16 Everyone else good with holding this until we get
17 through talking about the TRO request?

18 (No response)

19 THE COURT: That's what we'll do.

20 Otherwise, the, the motion is approved and we'll
21 backfill the dates.

22 MR. CODY: Thank you, your Honor.

23 THE COURT: Thank you.

24 What's next?

25 MR. CODY: The next item, your Honor, is Agenda No. 5,

1 which is the debtors' motion to approve their continued use of
2 their bank accounts, cash management system, and business
3 forms, granting a waiver of requirements under section 345(b)
4 of the Bankruptcy Code, and authorizing the debtors' banks to
5 charge certain fees and other amounts.

6 THE COURT: Uh-huh (indicating an affirmative
7 response).

8 MR. CODY: This, as I, as I noted, it sort of falls
9 into four categories of, of relief here. The debtors are
10 seeking approval to continue to use their current cash
11 management system, existing bank accounts, existing business
12 forms. They're seeking authority to open and close bank
13 accounts, as necessary and appropriate. They're seeking a
14 waiver of the requirements under section 345(b) of the
15 Bankruptcy Code and seeking authority for participating banks
16 to honor certain transfers as well as to charge certain bank
17 fees associated with their involvement with the debtors.

18 At the outset, your Honor, relief here is sought under
19 section 345 and section 363 of, of the Bankruptcy Code and at
20 this point I would jump into some background on the, on the
21 debtors' cash management system.

22 THE COURT: Uh-huh (indicating an affirmative
23 response).

24 MR. CODY: The debtors maintain three bank accounts at
25 JPMorgan Chase. Two -- each, each debtor has an operating

1 account that serves as both a, a consolidation -- consolidation
2 -- an operating account that's, that's there for consolidation
3 of funds as well as disbursements. There's also a dormant
4 account that was originally used by the debtors to service and
5 pay certain asbestos-related claims, including settlement
6 payments. At present, that, that account has less than \$3
7 million in it, but given the filing of these chapter 11 cases
8 and the imposition of the automatic stay, that, that account
9 will now remain dormant and the funds that are presently in
10 there will be returned to the applicable debtors' operating
11 accounts.

12 THE COURT: Okay.

13 MR. CODY: The debtors' cash management system is
14 pretty straightforward. There's a, there's a chart at the back
15 of the motion that highlights --

16 THE COURT: Uh-huh (indicating an affirmative
17 response).

18 MR. CODY: -- the system. It's, as I mentioned, it's
19 very, very simple, straightforward. There are the three bank
20 accounts, one being the dormant account, the other two being
21 the operating accounts, one with Murray Boiler, one with
22 Aldrich Pump.

23 THE COURT: Uh-huh (indicating an affirmative
24 response).

25 MR. CODY: And the parties are, are also party to cash

1 pooling agreements with their non-debtor subsidiaries.
2 Effectively, in order to more efficiently manage funds the
3 debtors and their non-debtor subsidiaries pool their cash in
4 the debtors' accounts to maximize efficiencies of a coordinated
5 cash management system. The funds are maintained and managed
6 by each respective debtor, but the funds from the non-debtor
7 affiliates remain the property of the non-debtor affiliates at
8 all times, as do the funds of the, the debtors remain property
9 of the debtors' bankruptcy estate.

10 The, the parties, the non-debtor parties monitor their
11 cash in their accounts and then transfer excess cash to the
12 applicable debtors in accordance with the terms of these cash
13 pooling agreements. The non-debtor entities can withdraw funds
14 or direct the debtors to disburse those funds in accordance
15 with the pooling agreements. To the extent that a non-debtor
16 subsidiary determines that it will not require subsequent
17 withdrawals or disbursements of its excess cash, it may
18 distribute those funds to the applicable debtor as a dividend.

19 But again, just to be clear, the funds that we're
20 talking about with respect to withdrawals and disbursements are
21 the non-debtor affiliates' cash. They keep a record of, of
22 the, of the funds and the transactions that relate to those
23 funds. The debtors' cash remains property of the estate and is
24 not in any, in any capacities funneled down to any of the non-
25 debtor entities.

1 So, your Honor, as, as, as a practical matter, it
2 would be disruptive and administratively burdensome and
3 unnecessary to require the debtors to close their existing bank
4 accounts and open new debtor-in-possession bank accounts. The
5 debtors use their accounts -- the debtors' use -- I'm sorry --
6 of their, their bank accounts constitute an ordinary course and
7 appropriate business practice of the debtors and authorizing
8 the continued use of the bank accounts will assist the debtors
9 in accomplishing a smooth transition to operating as debtors in
10 possession. Accordingly, the debtors are seeking authority to
11 continue to use their bank accounts in the ordinary course of
12 business.

13 Secondly, your Honor, the debtors would seek authority
14 to open and close accounts as they deem necessary. Any new
15 domestic bank account would be established at a bank that is
16 insured by, with the FDIC or FSLIC and is otherwise organized
17 under the laws of the United States or any, any state in the
18 Union. Moreover, prior to opening or closing a bank account,
19 the debtors will provide notice to the United States Bankruptcy
20 Administrator, the official committee of asbestos claimants
21 appointed in these chapter 11 cases, and the future claimants'
22 representative appointed in these, in these cases.

23 Your Honor, this, this type of authority is, to
24 continue to use bank accounts, is routinely granted and has
25 been granted in other bankruptcy cases in this District. Your

1 Honor, just to be clear, the, the, the debtors do have in -- in
2 -- a process in place to provide a -- they've had conversations
3 with JPMorgan Chase to ensure that no checks are inadvertently
4 cashed, checks that were written prior to the petition date are
5 not otherwise cashed or honored.

6 The debtors are similarly seeking authority to
7 maintain their ordinary course process for collecting, holding,
8 and disbursing cash throughout their cash management system and
9 to perform under the terms of the cash pooling agreements.

10 Cash management systems similar to that of the
11 debtors, and related agreements like the cash pooling
12 agreements, are also routinely implemented to consolidate and
13 manage cash flows and bank accounts among affiliates within a
14 corporate enterprise. The debtors believe that continued use
15 of their cash management system as well as their continued
16 performance under the cash pooling agreements is in the best
17 interest of the debtors' estates and parties in interest and
18 should be authorized by the Court.

19 Next, your Honor, the, the, the debtors would request
20 that they not be required to include the legend DIP or other,
21 any other debtor-in-possession designation and the
22 corresponding bankruptcy case number on their business forms.
23 The, the debtors respectfully submit that this release is,
24 relief is appropriate. The debtors, as non-operating entities,
25 have few business relationships and the parties they conduct

1 business with, such as law firms, are expected to be well aware
2 of the debtors' status as debtors in possession. As such, the
3 alteration of the debtors' checks and business forms to include
4 debtor-in-possession designation would be unnecessary.
5 Further, your Honor, the, the Court has allowed debtors to use
6 their prepetition business forms and checks without the "DIP"
7 label and corresponding bankruptcy cases [sic] in other large
8 cases, including in this District.

9 Next, your Honor, we're requesting a limited waiver of
10 section 345(b) of the Bankruptcy Code. The debtors submit that
11 cause exists to justify a waiver of section 345(b) of the
12 Bankruptcy Code, a limited waiver of section 345(b) of the
13 Bankruptcy Code of these cases to the extent that funds
14 maintained in, in their bank accounts or any domestic account
15 opened during the chapter 11 cases exceed the amount insured by
16 the FDIC or FSLIC. JPMorgan Chase is an extremely stable,
17 reliable institution and the debtors maintain that any other
18 banks will be of similar status. It will be -- it will impose
19 an undue and unnecessary administrative burden on the debtors
20 to require the debtors to open and maintain numerous accounts
21 with limited funds such that all account funds may be covered
22 by FDIC insurance, or, alternatively, to maintain a bond for
23 the value of the account funds.

24 Your Honor, we did have discussions with Ms. Abel this
25 morning about this particular issue. One of the concerns that

1 she raised was the amount of funds that the debtors have in, in
2 their particular accounts at present. We are, are going to
3 continue to discuss with Ms. Abel and come with, come up with
4 a, a, a consensual proposal, have come up with a proposal that
5 we hope will be, we'll reach a consensual resolution of her
6 concerns.

7 In addition, Ms. Abel raised a concern about what we
8 would be doing with our excess cash and what we have
9 represented to Ms. Abel -- and again, we, we owe her some
10 paperwork just so that she is comfortable with what, what we
11 are proposing -- but we are proposing to put the excess cash
12 in funds that are managed by JP, JPMorgan Chase that invest,
13 effectively money market accounts, that invest solely in U. S.
14 Treasury securities.

15 Thus, given all these, given all these components,
16 your Honor, we would, we would request that -- that the -- that
17 -- that we be granted the authority to, to have a limited
18 waiver of section 345(b), once we've come to agreed-upon
19 language with, with Ms. Abel.

20 Lastly, your Honor, the, the, the debtors are seeking
21 authority for banks to charge and the debtors to pay or honor
22 both pre-petition and post-petition services and other fees,
23 costs, and charges, expenses, which, which banks may be
24 entitled to under the terms of and in accordance with their
25 contractual arrangements with the debtors. The debtors also

1 request that the Court authorize banks to charge back returned
2 items to the bank accounts in the ordinary course of business.

3 The debtors require this relief to minimize disruption
4 to their bank accounts and to assist in accomplishing a smooth
5 transition to operation in chapter 11. Again, your Honor,
6 authority for, for the debtors to pay these fees and, and for
7 the banks to charge back returned items has been routinely
8 granted in chapter 11 cases as well in this District.

9 Unless your Honor has any, any questions, we would
10 respectfully request that the Court enter an order granting the
11 relief sought by the motion with the proviso that the debtors
12 will work through some language with Ms. Abel with respect to
13 the scope of the section 340, the requested section 345 waiver.

14 THE COURT: Comments by other parties?

15 MS. ABEL: Your Honor, this is Shelley Abel.

16 I think that debtors' counsel has covered our
17 discussion pretty adequately, but I just wanted to reserve our
18 right to continue to negotiate on terms of a order before it's
19 submitted to the Court and we will certainly contact Chambers
20 if we need your assistance going forward.

21 THE COURT: Anyone else? That got it?

22 (No response)

23 THE COURT: All right. I'll, I'll approve all of that
24 with the exception of the open items with the Bankruptcy
25 Administrator. If you can't come to terms over that, let me

1 know. We'll set up a, a further telephonic hearing on, on the
2 record to discuss what should be done with that. I would
3 assume the other parties don't need to be involved in that
4 since no one else has objected. But hopefully, you'll be able
5 to work your differences out there.

6 The rest of it is fine, okay? Send me an order when
7 you have one.

8 MR. CODY: Thank you, your Honor.

9 THE COURT: Okay.

10 MR. CODY: Will do. Thank you, sir.

11 THE COURT: All right. Any other base case matters or
12 are we ready to talk about the two motions in the adversary?

13 MR. CODY: That would conclude the first part of that
14 agenda, your Honor, and we're ready to proceed. Thank you.

15 THE COURT: Does anyone need a break before we start
16 in there? We're about at midafternoon.

17 (No response)

18 THE COURT: Everyone good to continue?

19 (No response)

20 THE COURT: Okay. We'll move on, then.

21 Mr. Erens, back to you. You wanted to, to take the
22 motion and -- we've got two motions. One's the injunction and
23 the other is the surface, service procedures. The second may
24 be the least controversial of the two. Do you, do you have a
25 preference as to which to approach first?

1 MR. ERENS: Your Honor, we were intending to approach
2 the actual TRO first but, if you'd like, we can just dispense
3 with the service procedures, but I'm not sure there's really
4 any objections.

5 THE COURT: Let's get that out of the way. If that --
6 that's likely not to be controversial. I can tell from the,
7 the pleadings. The other, of course, is. Why don't we address
8 No. 7, then, the debtors' motion for approval of service
9 procedures.

10 MR. ERENS: All right. Thank you, your Honor. I'll
11 be happy to do that.

12 The relief is pretty straightforward, your Honor.
13 The, the point, of course, is that claimants are represented by
14 law firms. We have information as to the names of the law
15 firms. We often don't have the information as to the names of
16 the claimants. There's been a practice, historically, in
17 asbestos cases that the law firms would like to receive the
18 pleadings. They don't necessarily want their clients to
19 receive the pleadings, which is for good reason. The clients
20 often may not understand the pleadings. They would turn back
21 to their, their, their, their lawyers, anyway, to understand
22 what the pleadings really mean and, as a result, what we'd like
23 to do is basically get authority to serve the adversary
24 proceedings on the law firms rather than the claimants. That
25 includes, of course, the summons and complaint, initially, and

1 then, ultimately, the other pleadings in the adversary
2 proceeding, itself.

3 So with respect to the summons and complaint, as we
4 set forth in the motion, there is authority under the Local, or
5 not the Local Rules, but the applicable Rules for the summons
6 and complaint to be served on an agent. We believe the law
7 firms represent agent under the circumstances and, therefore,
8 service on the law firms is authorized by, by the appropriate
9 Rules.

10 With respect to the other pleadings, there are a
11 number of reasons and I gave some of them, already, to serve
12 the pleadings on law firms rather than claimants, (a) they're
13 represented, already, so we think it might be inappropriate,
14 frankly, for the debtors to serve those pleadings on the
15 claimants. Again, it's more efficient for the pleadings to go
16 to the law firms, themselves. Often, we don't actually have
17 the address information for the individual claimants. And
18 again, the claimants often would turn back to their law firms
19 to understand what the purpose of the pleadings are, in any
20 case.

21 So we don't think there's any controversy between the
22 company and the various law firms as to what the proper
23 procedure should be. This type of motion has been approved in
24 numerous asbestos cases previously. It was approved in DBMP.
25 It was approved in Bestwall, Kaiser Gypsum, Garlock. We think

1 it's appropriate. We also think it's consistent with the Rules
2 of Professional Conduct and we would ask your Honor to approve
3 the procedures set forth therein.

4 THE COURT: Any comments, objections? Anyone else to
5 be heard?

6 (No response)

7 THE COURT: Okay. That one is approved.

8 All right. Backing up to the TRO/preliminary
9 injunction matter. Mr. Erens?

10 MR. ERENS: All right. Thank you, your Honor.

11 Your Honor, I know we're going to have a lot of issues
12 to discuss this afternoon on the proposed TRO, but I wanted to,
13 to start with the, the following, which is, as I indicated in
14 the introduction, there are thousands of pending claims,
15 asbestos claims, currently against the debtors. There's over a
16 hundred thousand claims, or close to a hundred thousand claims
17 and there's close to 8200 mesothelioma claims. These are
18 claims in this bankruptcy. They are pending against the two
19 debtors. When you cut through all of this -- and I'll go
20 through some detail -- but the ultimate purpose of the
21 adversary proceeding for today, the TRO and, ultimately, a
22 preliminary injunction, is to resolve the claims in the
23 bankruptcy case. It is to prevent piecemeal litigation of the
24 exact same claims that are being asserted in this bankruptcy
25 case by, or exist in this bankruptcy case by asbestos claimants

1 from being litigated in piecemeal litigation throughout the
2 country. They are claims against the debtors and if parties
3 are able to then, instead, try to assert the exact same claims
4 against third parties otherwise, we don't have much of a
5 bankruptcy case, your Honor. The stay is eviscerated. The
6 purpose of the bankruptcy case to resolve all the claims
7 collectively under 524(g) is, is eviscerated as well. And so
8 we think that the adversary proceeding is critical to the
9 success of the bankruptcy and is integral to the bankruptcy,
10 itself.

11 So what does the adversary proceeding seek to do? It
12 seeks to present or -- excuse me -- to prevent various parties
13 from pursuing, again, what we call Aldrich and Murray claims,
14 which are claims against the debtors against third parties.
15 There's three categories of parties. There are corporate
16 affiliates, there are insurers, and then there are parties that
17 we call indemnified parties. Those are parties that the
18 debtors have indemnified for asbestos claims or the asbestos
19 claims initiated. Ultimately, your Honor, the debtors will be
20 seeking both a preliminary injunction and/or a declaration that
21 the automatic stay or section 362 prevents the prosecution of
22 the claims against the debtor against third parties, but for
23 today we're limiting the relief we're seeking, obviously, to
24 the TRO.

25 The request for the relief is supported by two

1 declarations, the declaration of Ray Pittard, the, the
2 companies', or the debtors' Chief Restructuring Officer, and
3 the declaration of Allan Tananbaum, the debtors' Chief Legal
4 Officer. And we would ask that those two declarations be moved
5 into evidence as a result.

6 THE COURT: Any opposition, again subject to the right
7 of cross-examination?

8 MR. ERENS: Correct, your Honor.

9 THE COURT: Anyone opposed? Anyone?

10 (No response)

11 THE COURT: Received.

12 (Declarations of Ray Pittard and Allan Tananbaum admitted
13 in evidence)

14 MR. ERENS: All right. Thank you.

15 Again, the purpose of the case, your Honor, is to
16 fully and fairly resolve the asbestos claims against the
17 debtors through the establishment of a 524(g) trust. We
18 believe the adversary proceeding relief is critical to that
19 purpose. Absent the relief, claimants could litigate the exact
20 same claims that exist against the debtor, again against
21 various parties throughout the country. It would prevent all
22 the claims from being dealt with collectively. In this case,
23 it would eviscerate the stay and, frankly, would require the
24 debtors to go defend that litigation for reasons I'll get into
25 momentarily, which would obviously divert their attention from

1 the reorganization at issue. It would defeat the purpose of
2 the case and it would defeat the purpose of 524(g).

3 Importantly, this is a fact that we should never lose
4 sight of. None of the protected parties manufactured or sold
5 an asbestos-containing product that gives rise to a claim
6 against the debtors. The only protected party that maybe is an
7 exception are the entities that no longer exist, the two
8 entities that ceased to exist as part of the, the divisional
9 mergers. Those claims are allocated to the debtors in the
10 divisional mergers.

11 So those claims are clearly against the debtors and we
12 say in our pleadings that those claims clearly are stayed. For
13 today, since we haven't sought a declaration under 362 we
14 include them in the TRO request. But other than that, none of
15 the parties that are on the protected party list manufactured
16 or sold the asbestos-containing products at issue. Instead,
17 the debtors became solely responsible for those liabilities as
18 part of the 2020 restructuring, as was mentioned. And after
19 that restructuring was done in early May, the companies started
20 communicating that fact to plaintiffs' counsel. It didn't
21 happen overnight, but it started happening relatively soon and
22 in the, I'll call it, roughly 30 days since that communication
23 started in May the debtors have now found almost 70 cases in
24 which the same claims that exist against the debtors are being
25 asserted under various theories, successor liability, alter

1 ego, etc., and -- we said in the papers 65 claims. We think
2 it's now 70 claims -- and we think it'll just accelerate from
3 here.

4 So the relief we're seeking is not speculative, as
5 maybe someone has tried to point out in one of the papers.
6 There are now 70 of these types of lawsuits out there that name
7 New Trane Technologies as a defendant and New U.S. Trane Inc.
8 as a defendant. There's some claims against Gardner Denver,
9 Inc. Again, it was communicated. These are claims against the
10 debtors, but nonetheless, in the tort system the lawsuits were
11 being brought against third parties. If that continued, your
12 Honor, again, today we have 70. I think in the future we could
13 have hundreds, if not thousands, of these individual lawsuits
14 throughout the country. I'm not sure what this bankruptcy case
15 would really look like at that point. The claims are claims in
16 this case. They shouldn't be litigated while the stay is in
17 existence.

18 In terms of the authority, your Honor, for the
19 injunction, pretty straightforward. Section 105(a) of the
20 Bankruptcy Code gives your Honor the authority to enter the TRO
21 and, ultimately, the preliminary injunction. This type of
22 injunction has been entered in numerous cases in the asbestos
23 context. We provide in the papers a laundry list of those
24 cases. I think it was, maybe, 20. Most recently, in this
25 jurisdiction the injunction was entered after contest in the

1 Bestwall case by Judge Beyer and I think your Honor is aware in
2 the DBMP case your Honor did enter the, the TRO. I think
3 there's a schedule on litigation for the preliminary
4 injunction, itself.

5 THE COURT: Uh-huh (indicating an affirmative
6 response).

7 MR. ERENS: Matter of fact, your Honor, the debtors
8 are unaware of any case in which this type of injunction has
9 not been entered for all the reasons that make sense because if
10 you don't have this type of injunction, you really don't have a
11 bankruptcy case.

12 In terms of case law authority on how your Honor is to
13 assess the propriety of the injunction, the case law in this
14 Circuit goes back to Robins, A. H. Robins, the mass tort case.

15 THE COURT: Uh-huh (indicating an affirmative
16 response).

17 MR. ERENS: The Robins case, in large part, indicates
18 that your Honor has the authority to enter this type of
19 injunction where third-party litigation would put undue
20 pressure on the reorganization or would interfere with the
21 reorganization. That's the basic standard provided and, in
22 fact, it's never been clear that that, itself, is not
23 sufficient, per se, to enter the injunction. Nonetheless,
24 courts in this jurisdiction typically go through a four-factor
25 test for these types of injunctions, although I'm not sure your

1 Honor has to do that based on the Robins case. And there are
2 four factors that apply.

3 The four factors are whether there's a reasonable
4 likelihood of success, of a successful reorganization; the
5 threat of irreparable harm to the debtor; the balance of harms
6 between the parties; and the public interest, whether it
7 supports the injunction. Your Honor, each of the four prongs
8 for the issuance of the TRO today and, ultimately, an
9 injunction, are satisfied.

10 With respect to reasonable likelihood of success, as
11 we point out in the papers, at the outset of a bankruptcy this
12 test is not designed to be particularly high. This is not a
13 guarantee, this test is not a guarantee that this will be a
14 successful reorganization, but it is a standard that says there
15 is a reasonable likelihood that it will be a successful
16 reorganization.

17 Your Honor, the facts are uncontroverted that that is
18 the case. First of all, as mentioned, under the funding
19 agreements the debtors have more than sufficient resources to
20 fund fully a 524(g) trust. There are adequate resources to do
21 a reorganization here and obviously, as I mentioned at the
22 beginning, our intent is to sit down with the plaintiffs and to
23 effectuate that result. We have come to this Court to conduct
24 a proceeding that, hopefully, will lead to a successful 524(g).
25 That is our intent. We have come in good faith and we will

1 work hard to reach that result, the very purpose of the 524(g)
2 statute.

3 In addition, as judicial notice might indicate, many,
4 many cases have been resolved under 524(g). There have been
5 many reorganizations under 524(g) of the Code and I think in
6 Mr. Maclay's statement he talked a little bit about Garlock as
7 being a tough case. Garlock was a tough case, but even in that
8 case they reached a resolution.

9 So as a result, debtors do meet the reasonable
10 likelihood of success. We do believe it's likely that there'll
11 be a 524(g) result at some point in this case.

12 With respect to the second prong, threat of
13 irreparable harm, I mentioned in the introduction some of the
14 points here. This is a fairly straightforward analysis. If
15 the same claims that exist in this bankruptcy and that are
16 stayed are, instead, brought throughout the country on various
17 theories against third parties that the debtors have
18 indemnified -- and that's one of the linchpins here. The
19 debtors have indemnified protected parties -- then that's
20 really a process where the claims will be fixed outside of this
21 bankruptcy against the debtors. You don't have much of a
22 bankruptcy if, your Honor, a third party is being sued
23 elsewhere. That party has a contractual indemnity against the
24 debtor. The claim is fixed outside of the bankruptcy in that
25 jurisdiction and then becomes a claim in the bankruptcy.

1 Instead, 524(g)'s purpose is to deal with all the claims
2 holistically in this bankruptcy, for the claims to be treated
3 equally and fairly, and together. The claims that we're
4 talking about, again, are the exact same claims that exist
5 against the debtor, not other claims that exist against third
6 parties.

7 So the indemnity relationship, we think, your Honor,
8 is one of the important points to mention. If the claims are
9 liquidated against third parties, it would really be tantamount
10 to a claim against the debtor because the debtor has indemnity
11 with respect to these parties.

12 There are other reasons that the, the debtors would
13 suffer irreparable harm if litigation continued outside of this
14 bankruptcy. So in addition to the indemnity relationship, that
15 really means that, that litigation would be fixing claims
16 against the debtors outside of this bankruptcy. The debtors
17 would be faced with doctrines of *res judicata*, collateral
18 estoppel. They'd be subject to evidentiary prejudice in these
19 other proceedings. At the end of the day, since the claims
20 would really be tantamount to claims against the debtors, they
21 would be forced to ultimately go and defend those claims
22 throughout the country.

23 So while they're trying to conduct a bankruptcy, your
24 Honor, in North Carolina, they would be, they would be working
25 throughout the U.S. defending these claims and would not have

1 the resources, we think, to adequately prosecute the bankruptcy
2 at the same time. They'd have to, they'd have to participate
3 in the litigation and there'd be significant diversion and
4 that's, obviously, contrary to the breathing spell that section
5 362 is designed to create for a debtor in bankruptcy.

6 So that, in large part, would be the irreparable harm
7 the debtors would face. The claims would not be in this case.
8 They would be litigated outside this case, even though they're
9 tantamount to claims against the debtors.

10 In terms of balance of harms, I just went through the
11 harms to the debtor. In terms of harms to the claimants, we
12 think, your Honor, the harms are really pretty limited. First
13 of all, as I mentioned, none of the parties we're talking about
14 manufactured asbestos-containing products at issue in this
15 case. These are insurers, these are corporate affiliates,
16 these are parties that are indemnified by the debtors, but did
17 not actually manufacture the products.

18 More importantly, your Honor, as is well known,
19 plaintiffs sue multiple parties in the tort system. So it's
20 not like the debtor is the only defendant on these cases. The
21 complaints we typically see name scores of defendants and the
22 plaintiffs will be continuing to recover against those
23 defendants in the tort system as well as in the bankruptcy
24 trust system.

25 So the debtors may be one out of 20, 30, 40, 50

1 defendants in a case. So the prejudice is limited only to the
2 amounts that they cannot currently recover against the debtors.

3 Thirdly, your Honor, the tort system is a fairly
4 inefficient process for reasons I indicated at the beginning of
5 the presentation. There are many claims that linger in the
6 tort system for years. It's expensive. A lot of the money
7 that's spent by the defendants actually do not go to the
8 plaintiffs. Maybe less than 50 percent of the money that's
9 spent by the defendants go to the actual plaintiffs. 524(g) is
10 a much more efficient, much better system for everybody once
11 the 524(g) result is achieved.

12 So while there may be some delay, ultimately the
13 result that's sought to be achieved here will be much better
14 for the plaintiffs as well.

15 Thirdly, your Honor, as I think I mentioned before,
16 it's, the purpose, or one of the purposes of 524(g) to keep all
17 the claims together, to treat them equally and fairly, and if
18 you have some claimants outside of the system and some
19 claimants inside of the bankruptcy system, that's not
20 necessarily equal treatment. So there is unfairness not only
21 to the debtors, we believe, from having this collateral
22 litigation go on throughout the country, there can be, there
23 can be damage or harm to claimants as well.

24 There's a allegation in, in one of the pleadings, I
25 think, that was filed this morning that delay is a big harm to

1 the claimants. We don't discount the delay, your Honor, and
2 that's why we say we want to move this case, but delay is never
3 sufficient, your Honor, to deny an injunction. An injunction
4 always involves delay. If delay were sufficient to deny an
5 injunction, your Honor, then injunctions would never be issued.

6 So that's the balance of harms. We think it clearly
7 favors the debtors to maintain the integrity of the stay and
8 the integrity of the bankruptcy case.

9 Finally, public interest. As we, as your Honor read
10 in the papers, there's always a public interest in a successful
11 reorganization. We're going to work hard to get a successful
12 reorganization in this case and we think that's especially true
13 in a situation as complicated as this, which involves thousands
14 of asbestos claimants. A successful reorganization that can
15 resolve what has been a really difficult problem, as I said
16 over several decades and could continue, potentially, in,
17 outside of this bankruptcy, if it didn't occur for several more
18 decades in the tort system, if we can achieve that result, that
19 is a fantastic result and is very much in the public interest
20 and would allow claimants to be resolved in a full and fair
21 manner and litigation that has really dogged, I think,
22 everybody for a long time will be resolved.

23 So a public interest, I think, your Honor, clearly
24 favors trying to protect the integrity of this bankruptcy and
25 to achieve a successful reorganization.

1 Before I finish, your Honor, I do want to mention a
2 couple things about section 362 of the Bankruptcy Code. We're
3 not seeking, again, a declaration, although we do ultimately
4 seek a declaration that 362 applies to the protected parties in
5 certain circumstances. Today, we're just seeking a TRO, but
6 362 itself does support the relief we're seeking in many
7 different ways.

8 So, for instance, as I mentioned before, Old Trane and
9 Old Trane Technologies no longer exist. So while they are
10 protected parties, the claims that existed against those
11 entities were allocated to the debtors. So those are now
12 direct claims against the debtors. So we think 362(a)(1)
13 clearly applies to protected parties, Old Trane and Old Trane
14 Technologies.

15 Secondly, as I mentioned, one of the categories of
16 protected parties are the insurers. The debtors have
17 substantial insurance, as indicated in the first day papers.
18 Allowing parties to pursue insurance of the debtors and to try
19 to reduce the insurance asset of the debtors clearly is a, we
20 believe, a violation of section 362(a)(3) of the Bankruptcy
21 Code because the insurance, the insurance, your Honor, is an
22 asset of the estate.

23 In addition, many of the types of claims that would be
24 asserted against the protected parties in the tort system would
25 be things like fraudulent conveyance, piercing, successor

1 liability. Those are all estate causes of action at this
2 point, your Honor. Those are assets of the debtors.

3 So allowing parties to pursue those types of causes of
4 action in the tort system would be using estate property,
5 again, we believe, in violation of 362(a)(3) of the Bankruptcy
6 Code.

7 And then finally, going back to section 362(a)(1) of
8 the Bankruptcy Code, going back to Robins, which I mentioned at
9 the beginning of this process, the Robins case, again, stands
10 for the proposition that the automatic stay can be extended to
11 a party where there's such an identity of interests between
12 that party, the defendant, and the debtor, that the claim being
13 brought is really being brought against the debtor. Your
14 Honor, that, again, is what's going on here. The claims that
15 are, that would be sought to be brought if this injunction or
16 TRO would not be entered would be tantamount to claims against
17 the debtor. We think that, again, would be eviscerating the
18 automatic stay for purposes of this bankruptcy case and the
19 goal to achieve a section 524(g) result.

20 So going to the TRO specifically, because that's all
21 that's being asked of your Honor today, we're moving under Rule
22 65(b) and Bankruptcy Rule 7065. As noted, there's already been
23 now, what, 70 cases filed against protected parties. If the
24 stay or -- excuse me -- if the TRO were not entered, we know
25 that number would only go up. Given the bankruptcy, we think

1 the process would be accelerated because it'd be sort of common
2 sense for parties to say one of a number of things. One is, "I
3 haven't brought a lawsuit yet. Well, I can't bring a lawsuit
4 against the debtor. They're getting a stay. So I'm going to
5 bring a lawsuit against one of these protected parties." Two
6 is, "If I've only got a lawsuit against the debtor, I'm going
7 to amend it now 'cause I can't continue it against the debtor.
8 I'm going to amend it to add the protected parties and just go
9 sue them." So we'll see more and more of those. And then,
10 finally, if there are parties who have brought lawsuits and
11 have named these third parties, they will continue to prosecute
12 those lawsuits. That's the 70 that I mentioned, or so, that
13 already exist today. And again, that's only in the course of a
14 month.

15 So, in fact, the, the bankruptcy filing would probably
16 precipitate the problem that we've already seen in the tort
17 system prior to the filing of this bankruptcy. This type of
18 TRO, again, your Honor, has been granted numerous times. It
19 was granted in Bestwall, ultimately led to the entry by Judge
20 Beyer of a full TRO. It was entered, your Honor, in DBMP
21 subject to the pending litigation schedule over the PI. It was
22 entered in Garlock. It was entered in Kaiser Gypsum. We think
23 it's fairly routine in these bankruptcy cases to get a TRO to
24 get the case stable and on a full track and if parties want to
25 litigate over the PI over a course of a longer period of time,

1 that's certainly their right.

2 In terms of the period of time we're seeking for the
3 TRO, normally TROs are for 24 -- excuse me -- for 14 days, but
4 the, the Court can for cause extend it up to 28 days. We
5 would, as we indicated in the papers, ask that the Court extend
6 the TRO for the full 28 days for the main reason that an
7 asbestos claimants' committee will be appointed soon and we
8 want to give them the maximum amount of time to sit down with
9 us and discuss all the issues associated with the TRO and the
10 ultimate preliminary injunction. I don't know how long it'll
11 take the ACC to get appointed, but 14 days may not be enough
12 for them, to sit down with them and discuss the issues
13 associated with this litigation matter.

14 Thank you, your Honor.

15 THE COURT: All right.

16 Responses?

17 MS. SIMPSON: Your Honor --

18 THE COURT: Ms. Ramsey.

19 MS. SIMPSON: -- I'll let Ms. --

20 MS. RAMSEY: Yes, your Honor. Oh.

21 MS. SIMPSON: -- Ramsey go first.

22 THE COURT: Okay.

23 Ms. Ramsey, you want, want honors?

24 MS. RAMSEY: Thank you, your Honor. Yes, I would. I
25 appreciate it.

1 Your Honor, I'm going to ask, with the Court's
2 permission, my colleague, Davis Wright, to put up on the screen
3 some slides that we prepared for today and have ready to
4 distribute to the other parties.

5 THE COURT: All right. We'll see how this goes. I
6 think there was some conversation beforehand with our tech
7 staff as to putting these up.

8 MS. RAMSEY: Uh-huh (indicating an affirmative
9 response).

10 THE COURT: All right. Let's see how we go.

11 MS. RAMSEY: That's correct, your Honor. Right.

12 THE COURT: Very good, excellent.

13 MS. RAMSEY: Terrific.

14 So, your Honor, I'd like to start by calling back to
15 the hearing on the first day in the DBMP case where your Honor
16 observed:

17 "This is new. For those of us who have been doing
18 debtor-creditor work for 30-odd years, the idea that
19 you can have a liability go through a merger and not
20 have a liability on one part of your entity is a
21 little bit of a new thought.

22 Also, with regard to the general bankruptcy concept
23 that when you come into bankruptcy you bring all of
24 your assets and subject them to the risk in order for
25 the bankruptcy relief."

1 So, your Honor, with that, the Court indicated that it
2 was going to enter the TRO, but would, was not necessarily
3 inclined and was reserving judgment with respect to entry of a
4 preliminary injunction --

5 THE COURT: Uh-huh (indicating an affirmative
6 response).

7 MS. RAMSEY: -- to be a decision that the Court was
8 going to make after a contested evidentiary hearing, which is
9 now scheduled, as the Court knows, for early September.

10 So this is -- I wanted to call back that, signify the
11 Court because we are going to ask the Court today to revisit
12 that determination and we're ask -- ask -- going to ask the
13 Court to, to make the opposite call today.

14 Your Honor, this is the third time, as Mr. Maclay
15 mentioned, that we've seen this same pattern. We saw it in
16 Georgia-Pacific back in November of 2017, we saw it with
17 CertainTeed in January of 2020, and now we've seen it with the
18 two Trane entities with virtually the identical type of
19 proceeding that the Court has seen before. These companies
20 traveled to Texas, were there for a very few hours -- in this
21 latest iteration less than two hours -- and then one, the, the
22 entity that had the majority of the assets went back to
23 Delaware or to Delaware and the entities that were the
24 repository of the asbestos liabilities, a funding agreement,
25 and, and very little else, traveled to, to North Carolina and

1 prepared for a bankruptcy.

2 What is a little unique about this particular
3 transaction, your Honor, is that this is the second part of a,
4 a series of transactions. In March of this year, there was,
5 there were a series of transactions that are known as the
6 Reverse Morris Trust Transaction. It, it's, essentially, a, a
7 tax-sheltering structure and I don't want to get too deep in
8 the woods, your Honor, but I think it's important to sort of
9 understand how this fits in with the overall picture.

10 In the top left-hand side, you will see that these
11 entities started out as Gardner Denver and what we've called
12 Old Ingersoll Rand. Following it to the right, then what
13 occurred was that Old Ingersoll Rand spun off Ingersoll Rand
14 Industrial, one of its operating entities. It then merged Old
15 Indust -- IR Industrial merged with Gardner Denver. And this
16 is the part that is critical to us, your Honor. As part of
17 that, 1.9 billion in cash and 6.9 billion in stock traveled out
18 of Gardner Denver and went to Old IR and then, in the last
19 days, your Honor, New IR changed its name -- Gardner Denver
20 changed its name to New Ingersoll Rand and Old Ingersoll Rand
21 became Trane. The importance to us, your Honor, is that this
22 transaction resulted in almost \$7 billion of value traveling
23 out of the entities that are now depending on the two
24 iterations of, that are called New Trane and New TTC to pay
25 these obligations.

1 We then go to, your Honor, what you've seen before,
2 which is the funding agreement allocations between these
3 entities. We have Trane U.S. and Trane Technologies providing
4 a funding agreement to Aldrich Pump and Murray Boiler and we
5 have a tiny little part of the agreement that provides for an
6 indemnification by those entities back to Trane, which is the
7 same sort of structure we've seen before, and, and it's
8 structured that way, as, as we advised the Court before, to
9 give the debtors an argument that there's some reciprocal duty
10 and they have some skin in the game in this, but ultimately, as
11 they've candidly told the Court, these are backstops. This
12 funding agreement is a backstop and the obligations from Trane
13 U.S. and Trane Technologies mean that they are the real parties
14 that have a financial interest in this case.

15 What is unique about this case, as, as Mr. Maclay
16 advised the Court and as we put in our brief this morning, is
17 that here we have a funding agreement that seeks to limit the
18 Court's ability to determine whether Trane U.S. and Trane
19 Technologies receive 524(g) relief and they do that by
20 providing that the only kind of plan that can be confirmed is a
21 plan that provides these non-debtor funding parties with all of
22 the, all of the protections of section 524(g) of the Bankruptcy
23 Code. They also go on to augment those provisions by saying
24 that, that the agreement, the funding agreements terminate on
25 the effective date of a plan and they provide that, you know,

1 this has to be a lump sum. And you heard some justifications
2 this morning about that. This is just clarification and that
3 was what, you know, of course, was always meant, but the Court
4 may be aware that the funding agreements are reflected as
5 having been amended on June the 15th -- so last Monday before
6 the filing -- coincidentally after, in the Bestwall case, a
7 plan was proposed. It did not provide 524(g) relief to the
8 plan funders and provided for an assignment of the funding
9 agreement.

10 So this is not accidental or clarification. This is
11 an effort to close a loophole in the prior funding agreements.

12 If we go to the implications, your Honor, of, of these
13 changes to the Court, it requires the Court to provide 524(g)
14 relief that we contend is inconsistent with the language of the
15 statute, itself. We believe that these parties cannot qualify
16 for 524(g) relief. And so that makes this funding agreement as
17 they are proposed in this bankruptcy completely illusory.

18 The payors are, you know, are going to argue, also, we
19 believe, as a result of the lump sum provision that they have
20 to have an estimation proceeding 'cause they're going to
21 contend to the Court that that's the only way they can figure
22 out what that lump sum should be. Through these modifications
23 to the funding agreement and through the other provisions that
24 were already in the funding agreement, they are looking to
25 restrict all of the normal rights that creditors have. They're

1 trying to take away the ability of the creditors to file any
2 plan or to assign these agreements or to otherwise take any
3 action that they do not get to control. As the Court is aware,
4 there are additional flaws in the funding agreements that we
5 have pointed out time and again. The funding agreements,
6 again, are not secured or guaranteed. They do not prohibit
7 transfers of assets. In fact, they expressly permit transfers
8 of assets. They do not provide any kind of restrictions on
9 incurrence of debt. They do not prevent further divisional
10 mergers from taking place.

11 So as you go through these, your Honor, they have --
12 the, the structure of the funding agreement means that, that
13 payors are completely in charge of these bankruptcy cases and
14 it's clear from the new funding agreement as now modified that
15 they are running the case for their own benefit. That's all
16 they're seeking to do. These cases are about the nondebtors.

17 So if we can go to the next slide.

18 I, I believe that debtors' counsel argued that under
19 Robins the Court does not have to really identify all or really
20 evaluate all of the four factors for a TRO. The, the Court
21 can, you know, really, just sort of look at, at the first
22 factor. That is, we believe, not a correct statement of the
23 law, your Honor. We have cited in our papers the Winter case
24 in the Supreme Court which specifically requires that each of
25 the four factors be satisfied in order for a TRO to, to issue.

1 As the Court -- just one more -- before we get into
2 the, the merits of that, one more piece of this puzzle, your
3 Honor, is that what we've seen that's also different in this
4 case than the other two cases, in Bestwall and then in DBMP, is
5 that although the debtor is sort of throwing out the potential
6 of, of settlement, it's very clear from the Informational Brief
7 that has been filed in this case that the debtors intend to
8 move for immediate discovery and an immediate estimation. On
9 Page 36 of their Informational Brief when they're talking about
10 the goals of this case they, they say:

11 "Consistent with their intent to move these chapter 11
12 cases forward from the start, they intend to promptly
13 ask this Court to begin a process to help them
14 determine the aggregate amount of the Debtors' current
15 and future asbestos liability for plan purposes."

16 What that means is that the debtors and their plan
17 funders or the, the funding parties are asking the Court to
18 value the asbestos claims through a proceeding in a bankruptcy
19 case as opposed to a way that those claims are valued in the
20 tort system. And I'll come back to that as we go through the
21 individual factors, your Honor.

22 The, the first factors -- the four factors are listed
23 here and they were correctly identified by the debtors,
24 likelihood of a successful reorganization, imminent risk of
25 irreparable harm, balancing of the harms, and public interest.

1 And, and debtors' counsel cited to the Robins case about,
2 saying that failure to enjoin is appropriate when it would
3 adversely affect the bankruptcy estate or would detrimentally
4 influence and pressure the debtor through a third party.
5 Neither of those things, your Honor, are present here.

6 The debtors, of course, have, have the burden of
7 meeting the TRO factors that are proposed. There are,
8 actually, four categories, the way that they were described in
9 the papers, that the debtors seek to extend TRO protection to.
10 The first are the former Trane Technologies Company LLC entity.
11 We've defined that as OLD TTC. The former Trane U.S. Inc.
12 entity, Old Trane. Those two entities were the entities that
13 went through the divisional merger and resulted in the two
14 debtors and the two new identified plan funders under the
15 funding or funding -- not plan funders -- the entities that are
16 the obligors, the payors, under the funding agreement. The
17 third is non-debtor affiliates that are identified on Appendix
18 B and those include Trane Technologies LLC, New Trane, and
19 Trane U.S. Inc., New TTC. The next are entities that are not
20 affiliates of the debtor, but are also identified on Appendix B
21 as to entities that, that it has asserted Aldrich and Murray
22 have contractual indemnification obligations to and the final
23 party are the insurance entities, also identified on Appendix
24 B.

25 So what claims are they looking, first of all, to

1 enjoin? That's the first thing that we'd like to call the
2 attention, the Court's attention to. They define the claims as
3 Aldrich/Murray asbestos claims and that means any asbestos-
4 related claim against either debtor, including all claims
5 related in any way to asbestos or asbestos-containing materials
6 asserted against or that could have been asserted against Old
7 Ingersoll Rand or Old Trane. And they go on to say:

8 "For the avoidance of doubt, Aldrich/Murray Asbestos
9 Claims include all asbestos personal injury claims and
10 other asbestos-related claims allocated to,
11 respectively, Aldrich from Old Ingersoll Rand New
12 Jersey or Murray from Old Trane in the documents
13 implementing the 2020 Corporate Restructuring."

14 These are allocated. They're allocated on purpose.
15 They're allocated by an entity that is looking to avoid
16 bankruptcy filing, itself.

17 So the first question is, the first criteria, no
18 successful likelihood of, of reorganization is possible here.
19 The debtors contend that they have a likelihood of success
20 because they can afford to pay for it, they say, because of the
21 backstop provided by these funding, funding agreements.
22 However, the conditional nature of the funding agreements in
23 these cases do not permit that funding because the funding
24 agreements in these cases are completely subject to facts
25 evolving exactly as the payors would have them evolve and the

1 claimants agreeing. Because 524(g) plans at their base, at
2 their root require agreement and consent to whatever it is that
3 the debtors believe that the liability is or that they choose
4 to pay.

5 We also raise this for -- New TTC and New Trane, we
6 believe, are ineligible for 524(g) relief because they have
7 independent direct liability to the, to the asbestos claimants
8 as successors to the Old Ingersoll Rand and Old Trane entities.

9 The debtors have not sought, to our, best of our
10 information, any open dialogue with the claimants or any of
11 their representatives. They have not come to this Court with
12 any agreement. They can't demonstrate a likelihood of
13 agreement. The Court has witnessed what has occurred in the
14 other case that is pending. It's been pending longer, the
15 Bestwall case. That case has been pending a little over 2-1/2
16 years and, and the debtor's counsel has recently announced that
17 the parties are very, very far apart and the debtors in that
18 case, the debtor in that case contends that the only way to
19 bring the parties together is through an estimation trial.

20 Here, as I mentioned, the Informational Brief in this
21 case is a declaration of war because what the, the debtors and
22 the payors under the funding agreement want to do is have this
23 Court allow them to conduct discovery and challenge -- and
24 they've laid out some of the challenges they would intend to
25 make -- the claims and to come to some estimation of liability.

1 Because, fundamentally, the only way to value these claims is
2 on an individual basis, which can't be done in this case.

3 So we can see that this is a case that is more about
4 trying to contain and control than to resolve fairly the
5 asbestos claims.

6 Finally, your Honor, apart from New TTC's and New
7 Trane's commitments, such as they are, in the funding
8 agreements no other protected party who is proposed to benefit
9 from the TRO has made any commitment or a representation that
10 such an entity would contribute to any section 524(g) trust
11 that might be created.

12 So because of, of that, your Honor, we don't believe
13 that the debtor has sustained any proof of a likelihood of a
14 successful reorganization and, in fact, we believe that they
15 cannot demonstrate that based on the, the language of the new
16 funding agreements.

17 To move to the second factor, your Honor, no imminent
18 risk of irreparable harm to the debtors, we start with Old TTC
19 and Old Trane. The Court heard debtors' counsel say that and
20 made a, a point twice of saying none of the proposed protected
21 parties other than Old TTC and Old Trane manufactured or sold
22 any asbestos or asbestos-containing products at issue. Well,
23 that's true. Neither did the debtors. These are the
24 responsible entities, Old TTC and Old Trane, but the question
25 is why do those entities need the protection of this Court and,

1 more than that, based on the inequitable conduct that they have
2 engaged in where they have, they have gone through a
3 transaction that took significant value out of these companies
4 and then engaged in a divisive merger, which is expressly and
5 exclusively designed to treat just the asbestos claimants
6 differently than every other creditor of those entities..
7 Those entities, we believe, have engaged in conduct that, that
8 makes them ineligible for this.

9 There's also, your Honor, no allegation that those
10 entities were not able to pay asbestos claims, present and
11 future, in full. These are the responsible parties and the
12 only alleged harm relates to what has been structured to be
13 harm. These are the entities that set this up so that they
14 could then cry that they need this Court's assistance to
15 protect them.

16 Moving to the next set of entities, your Honor, are
17 New TTC and New Trane. Here, the, again, the debtors allege
18 that these entities are able to pay all the claims in full.
19 They, they make that representation on Page 25 of the
20 Informational Brief. They go on to say a determination -- I'm
21 sorry -- Page 25 of the motion for, for preliminary injunction
22 -- a determination of liability against these entities,
23 moreover, would satisfy some of the asbestos claims and since
24 they're the real parties who have the financial interest,
25 anyway, it's not logical that those entities would not defend

1 and resolve the claims to the best value that they could.
2 Ultimately, when they pay them, it's a net neutral to the
3 debtors because it's going to reduce the funding obligations,
4 but it's also going to take some of these claims out of the
5 estate. It simply has no harm, let alone irreparable harm to
6 the debtors.

7 Meanwhile, the other thing that we're seeing, your
8 Honor -- and this is in our brief -- is that on June 5th, not
9 long before this bankruptcy was filed, New TTC announced a
10 dividend to its shareholders payable in September of, of
11 approximately \$127 million. That is not different from what
12 we've seen in the Bestwall-Georgia-Pacific context, which is
13 that there are continuing dividends being paid to shareholders.
14 If those entities were in bankruptcy, that would be something
15 that, that was, was a violation of the absolute priority rule.
16 Equity should not be being paid while creditors sit unpaid.

17 Finally, your Honor, again, the only alleged harms
18 that, that the debtor has made are those that they specifically
19 put in place as part of the structure. Through the secondment
20 agreement it is New TTC and New Trane that are determining
21 which employees are going to be seconded to these debtor
22 entities. They could provide any other employees that they
23 wished to be seconded. It is not necessary that the same
24 people that would necessarily be involved in asbestos
25 litigation, if you believe that, that there are individuals

1 that uniquely would have to be involved in that, there's no
2 reason why those are the same individuals that would need to be
3 assigned to these debtors as part of their restructuring
4 effort.

5 Your Honor, I heard, also, debtors' counsel argue
6 that, that tort litigation was inefficient and, and trusts are
7 better. They're more efficient for asbestos claimants. And
8 obviously, we have a couple of responses to that. Partly, our
9 response is the asbestos claimants have their own view about
10 what is best for them and they'd like to be litigating and
11 pursuing their, liquidation of their claims in the tort system,
12 at least, at least and unless there is an acceptable
13 alternative to them.

14 But the debtors' claims of efficiency are -- are
15 simply -- fall on deaf ears because while they may view this as
16 efficient, there is, in fact, irreparable, imminent harm to the
17 claimants.

18 Moving to the next group, your Honor, new debtor, non-
19 debtor affiliates other than New TTC and, and Trane, the
20 debtors have made no showing at all of, list the harm for the
21 102 other non-debtor affiliates on their list. This is a
22 standard, the TRO standard that must be met on an individual
23 basis with respect to every single entity that is listed and
24 the debtors have simply not made that. The debtors have not
25 alleged that most of these non-debtor affiliates have been sued

1 even, other than New TTC and New Trane. There's no allegation
2 that those entities would contribute to this reorganization
3 case, in any event, and many of the proposed protected parties
4 are foreign entities and there's been no representation that
5 they would consent to jurisdiction before this Court, which we
6 believe would be a fundamental requirement that should be a
7 condition of this Court providing any sort of injunctive
8 relief.

9 Moving to the next slide.

10 Again, the debtors have not alleged any basis to
11 enjoin an action against most of the non-debtor affiliates.
12 They, they simply have failed to make any showing at all.

13 The next group, your Honor, are entities that are not
14 affiliates of the debtors, but are indemnified, they said, or,
15 or as to which Aldrich or Murray otherwise has agreed to be
16 responsible. But that language is a little misleading, your
17 Honor, because all of these indemnifications were assigned.
18 All of these indemnifications were part of assignments during
19 that divisive merger transaction. These are not agreements
20 that Aldrich or Murray in their 48 days of existence
21 prebankruptcy have made. Fifteen of the named entities, your
22 Honor, are listed, but there are another large group of, a
23 potentially large group of unidentified other parties which
24 include affiliates of all of the foregoing under various
25 agreements and their respective officers, directors, partners,

1 stockholders, employees, agents, representatives, and any
2 permitted successors or assigns. In the new, in the amendment
3 today, your Honor, this morning's amendment to, to Annex B,
4 there's also another group of, of unidentified proposed
5 indemnitees, Ingersoll Rand U.S. HoldCo. and its affiliates,
6 including without limitation. Gardner Denver, Inc., Gardner
7 Denver Holdings, Inc. and Ingersoll Rand are each a protected
8 party, to the extent named in an asbestos claim.

9 So we have all kinds of, of additional parties, your
10 Honor. Who knows how many there are out there. With respect
11 to these indemnification obligations, again, your Honor,
12 they're contrived. They're all part of a structure that is
13 designed specifically to obtain relief in this case. In a
14 full-pay case, though, your Honor, indemnity claims are going
15 to replace the claims of the asbestos claimants once
16 liquidated.

17 So there's no risk of irreparable harm. You're
18 trading one creditor for another and to propose that
19 indemnified parties receive the benefit of an injunction so
20 that the asbestos claimants can't recover puts one set of
21 parties above another and makes absolutely no sense at all.
22 It's, it's an absolute bias against the asbestos claimants.

23 Moving to the insurers, your Honor, there are proposed
24 insurers who have insurance-related agreements or they're like,
25 they're under Aldrich or Murray again, they were assigned. In

1 a full-pay case, your Honor, there's no reason to protect the
2 insurance assets. Everyone's going to be paid in full. So
3 there's no risk of irreparable harm. The asbestos claimants
4 are really the intended beneficiary of these contracts and they
5 should be permitted to continue to collect from every available
6 resource as long as it's not going to harm this estate and it's
7 not going to harm this estate because there's a backstop for
8 the payors.

9 Recently, in the Imerys bankruptcy case, your Honor --
10 that's the, the talc supplier to Johnson & Johnson --

11 THE COURT: Right.

12 MS. RAMSEY: -- and other products -- no temporary
13 injunctive relief was sought or entered to protect the
14 available insurance and litigation continued and has continued
15 over the past 15 months. As your Honor has heard in Kaiser
16 Gypsum many times the argument bankruptcy is not intended to
17 benefit insurance companies. And finally, your Honor, stays
18 are frequently lifted in cases to make sure that insurance
19 proceeds are allowed to be pursued during the bankruptcy,
20 provided that it will not depreciate the assets that are
21 available, in any event, to, to the other claimants.

22 Moving to the third standard, balancing of the harms,
23 your Honor, balancing of harms in this situation favors the
24 claimants. The claimants have immediate economic interests.
25 As Mr. Maclay said, you know, at the beginning, these

1 claimants, the money that they are seeking mean the difference
2 between relative comfort at the end of their life or sometimes
3 foregoing that comfort. It means the difference between a
4 dying person's peace of mind that they have left behind, you
5 know, security for their family versus the absence of that
6 peace of mind. It is dismissive and callous to assert that
7 asbestos claimants would suffer only mere delay. It has real
8 and tragic consequences and, in addition to the emotional and
9 medical consequences it has, in some states claimants will lose
10 rights of compensation upon death. And so that -- and, and
11 also, to the extent that litigation is not continuing, rights
12 may be lost because a claimant's memory loss or death may
13 impact the ability to pursue claims in the future.

14 While the automatic stay is automatic, non-debtor
15 injunctive relief is discretionary with this Court and the
16 debtor offers no justifications to treat the asbestos claimants
17 differently here than it plans to treat all of the other
18 creditors of New TTC and New Trane.

19 We heard debtors' counsel say what kind of bankruptcy
20 do you have? How -- how will -- how are you going to have a
21 bankruptcy case if at the same time claims are being eliminated
22 and paid during the course of the case? But inconsistently at
23 the beginning in the opening argument the Court heard how
24 things are being filed every single day and litigation
25 continues to, to go on every single day and, and it goes on day

1 in and day out, were the phrases that I believe counsel used.
2 It is the case that the current claimants, to the extent that
3 they are valuing, liquidating, being paid in the ordinary
4 course, are likely to be replaced by individuals who are
5 diagnosed and who will then have cognizable claims that they
6 will pursue in this bankruptcy case in litigation, but we would
7 advocate to the Court that it is a much more appropriate and
8 effective way for those claims to be valued in the real world
9 in the tort system, which is the American judicial system, and
10 you heard a lot of things about how, you know, this Court is,
11 is supposed to intervene and fix the way that the justice
12 system works, but we do not believe that that is the purpose of
13 this Court.

14 Your Honor, in a full-pay case there's simply no
15 reason --

16 Moving to the next slide.

17 -- that there is a need to protect limited assets so
18 that they can be fairly allocated because 524(g) at its root
19 was designed, really, in mind of cases where there was a
20 limited fund and claimants should share in that limited fund.
21 The use of 524(g) in a contest in which there is a full-pay
22 case does not require that every single claim be valued exactly
23 the same. In fact, in every single asbestos trust there is the
24 constitutionally required exit to the tort system, ultimately,
25 so that a claimant can try its claim before a jury, as is its

1 right. In, in a trust, which is a full-pay, a trust, it is
2 perfectly appropriate for claimants to be valued in ways that
3 would otherwise be more typical of valuation mechanisms in the
4 tort system.

5 So the idea that this is somehow contravening the
6 purposes of 524(g) is just not a correct statement.

7 The protected parties had been out, at this litigation
8 for, for some time and there is no reason to believe that in
9 the next 14 days that any significant change is going to affect
10 them by not granting this TRO. The debtors are not going to
11 suffer any harm. To the extent that claims are liquidated and
12 paid, they'll simply move out of this bankruptcy and that will
13 simplify and expedite the bankruptcy case and, in fact, it'll
14 eliminate the reason for this Court to have extensive
15 litigation over whether or not an estimation proceeding is
16 appropriate in this context and how claims are to be resolved.

17 And finally, your Honor, denying injunctive relief
18 will expedite the resolution of this case because it will mean
19 that there are countervailing urgencies and pressures that are
20 on the debtor, not just on the claimants.

21 Your Honor, moving to the final point, no public
22 interest. There's -- a TRO would normalize an otherwise
23 existential threat to the integrity of this entire system.
24 This is a carefully structured scheme which contravenes
25 everything that Congress established in the Bankruptcy Code to

1 balance the competing interests of debtors and creditors. This
2 is not a normal reorganization. We're now seeing it for the
3 third time and, perhaps, it's a little less shocking than it
4 was the first time, but this is not a, a normal bankruptcy. We
5 believe the Court had it exactly right that, that the idea that
6 a nondebtor can sit outside a bankruptcy case, go about its
7 business, capture one set of creditors in a trap, and hold them
8 there for, indefinitely. It is, is simply not the way that
9 this process was intended to work.

10 A stay or injunction allows the debtors to receive,
11 the, the protected parties to receive the equivalent of an
12 automatic stay while not having that. So they are free of
13 disclosure and reporting requirements. They're outside the
14 Court's supervision. They can continue to engage in whatever
15 transactions they want, pay their shareholders, pay their
16 officers dividends and bonuses and they are completely exempt
17 from all processes, including the fact that as a result the
18 quarterly fees that are paid as a result of these matters are a
19 fraction of what would be made, paid if the, the real party in
20 interest were to be a debtor in the case.

21 There is a strong public interest in the timely
22 compensation of personal injury claimants and in the principle
23 that all entities should be held accountable for the harms that
24 they cause. To the extent that the debtors or the payors under
25 the funding agreement have defenses like chrysotile isn't

1 really that injurious and mesothelioma is a naturally occurring
2 disease, if they want to advocate those positions, there's a
3 place for them to do it. It's in the tort system. Those
4 issues are litigated every day and that's where they should
5 litigated those issues.

6 The public interest in a successful reorganization
7 applies in every case, but in particular, your Honor, this is
8 not a case about a successful reorganization. There's nothing
9 to reorganize. You heard a statement that these entities are
10 mere holding companies. They really don't have much in the way
11 of cash. You heard that in connection with the cash
12 management. This is not a true reorganization. This is an
13 effort to take advantage of one provision of the Bankruptcy
14 Code which is legitimate for a company to take advantage of if
15 it's otherwise prepared to subject its assets to scrutiny, to
16 the transparency that this process requires, to comply with the
17 requirements of the Code, to otherwise engage as a real party
18 in interest. It is not intended for reorganizations to be
19 corrupted the way that the debtors and the payors would have
20 it.

21 So, in conclusion, your Honor, the debtors have
22 failed, we believe, to satisfy their burden. They will --
23 denial will expedite a full evidentiary hearing on the merits
24 of a preliminary injunction. If the Court were to deny it,
25 there's no question that we're going to get before the Court

1 much more quickly where the debtors are going to try to prove
2 up their entitlement to a preliminary injunction and a
3 committee appointed in the case can contest that. It will
4 certainly not linger because there's ongoing discovery that the
5 claimants have to initiate in order to get the information to
6 challenge it. It will move it along.

7 And finally, your Honor, it should not be the
8 claimants' burden to challenge an existing injunction and the
9 truth is that we all know that once something's out there it's
10 harder to remove than it is to put it in place in the first
11 instance.

12 So again, your Honor, we are asking the Court to deny
13 the requested TRO. We understand that this is unique. We
14 understand that this is an extraordinary request in the scheme
15 of bankruptcy, but these cases present extraordinary issues.

16 The final thing I, I want to say, your Honor, is there
17 was some discussion about the entry of the preliminary
18 injunction in Bestwall. It is correct the preliminary
19 injunction was entered November of 2018, I believe, and that
20 preliminary injunction is up on appeal and as the Court knows,
21 we are contesting and going to an evidentiary hearing in the
22 DBMP case. These cases present unique issues. This case
23 presents an even more set of unique factors. Your Honor, we
24 believe this is the case where the debtors and the effort of
25 the parties that are engaging in those unique transactions

1 designed to abuse and misuse the Code should be told that the
2 Court is not going to permit that to continue.

3 Thank you.

4 THE COURT: All right. Thank you.

5 I think at this point it probably would behoove all of
6 us to take a ten-minute recess for comfort and then pick up
7 with Ms. Simpson's arguments.

8 Anyone opposed?

9 (No response)

10 THE COURT: Okay. Don't turn off your
11 videoconference. We'll leave it right where it is and we'll be
12 back at 20 till, okay?

13 (Recess from 4:41 p.m., until 4:53 p.m.)

14 AFTER RECESS

15 (Call to Order of the Court)

16 THE COURT: Have a seat, everyone.

17 Okay, Ms. Simpson. Ready to hear from you.

18 MS. SIMPSON: Thank you, your Honor. Thank you.

19 Linda Simpson, JD Thompson Law, representing Richard and
20 Calvena Sisk. Mr. Kazan's also on the phone, or on the video,
21 and he is the personal injury attorney for the Sisks.

22 I know your Honor has had mountains of pages to read
23 today in a short period of time and I just wanted to see if you
24 had had an opportunity to read the objection?

25 THE COURT: I did.

1 MS. SIMPSON: Okay. Thank you.

2 I, I'm not going to repeat what's in that objection or
3 what the other parties have stated, but I just wanted to
4 emphasize a few points.

5 Assets have, assets have been removed from the reach
6 of asbestos claimants. The Reverse Morris Trust Transaction
7 removed nearly 7 billion of value. The Texas divisive merger
8 removed the vast majority of what was left in the Ingersoll
9 Rand Enterprise.

10 As -- with respect to the funding agreement and the
11 statements that the debtors' counsel made that the added
12 provisions -- these were not in DBMP or the Bestwall cases --
13 but that those were merely there to describe the process, that
14 argument is disingenuous. I've never heard of smart people in
15 large firms in big cases adding provisions to agreements that
16 have no substantive effect. But given that, the plain reading
17 of those provisions, as set out in the Sisk objection, means
18 that the funding agreements do not provide assets to the Sisks
19 or other similarly situated asbestos victims unless the Court
20 gives away its, to the debtors, its authority and
21 responsibility to determine the appropriateness of 524(g)
22 relief as to non-debtor entities and the Court is willing to
23 limit any plan considerations to the one the debtors propose, a
24 lump sum payment plan or a sum certain agreed to by the
25 debtors.

1 Because the Ingersoll Rand Enterprise put only shell
2 entities in bankruptcy, the Sisks and other asbestos claimants
3 have been deprived of their ability to look at the transactions
4 and have a full picture of the assets that should have been
5 available to satisfy their claim. There's no transparency in
6 this case. There's no transparency as far as the claimants go
7 or the Court and transparency and disclosure are longstanding
8 hallmarks of the bankruptcy process.

9 There's been a lot of references to the Garlock case
10 and Judge Hodges, to this and that. I want to go back a little
11 before that and recall a case with Thomas Mitchum (phonetic).
12 It was in 1995 and it dealt with the debtor's lack of
13 disclosure. In that, Judge Hodges quoted a Steely Dan song and
14 he said, "Your black cards can make you money. So you hide
15 them when you're able. In the land of milk and honey, you must
16 put them on the table." In this case, the Ingersoll Rand
17 Enterprise doled a few cards to the debtors and kept the rest
18 hidden under the table. If they want to consume the milk and
19 honey that this Court has to offer in the form of a TRO and
20 relief, they must submit the full disclosure and transparency
21 and put their cards on the table. In this case, the
22 machinations of Ingersoll Rand Enterprise, they're contrary to
23 what Congress intended for the bankruptcy system and for
24 asbestos cases. Put simply, the actions of the Ingersoll Rand
25 Enterprise abused the bankruptcy process by first hiding their

1 assets and then trying to hide them from their victims.

2 This Court is being asked to grant extraordinary
3 relief in the form of a TRO to protect the Ingersoll Rand
4 Enterprise, while what the Inger, while what that same
5 enterprise has done is to strip all protections from the real
6 victims like Mr. Sisk.

7 So why is this Court being asked to protect those who
8 have already more than adequately protected themselves? When
9 do we protect those who are actually injured? Your Honor, the
10 time has come to protect real people, like Mr. Sisk, from the
11 overreach and abuse of these companies. On behalf of the
12 Sisks, I would ask the Court to deny the TRO.

13 THE COURT: All right.

14 MS. SIMPSON: Thank you, your Honor.

15 THE COURT: Anyone else who has not had an opportunity
16 to speak once at least with regard to the current motion?

17 (No response)

18 THE COURT: Anyone?

19 (No response)

20 THE COURT: All right. Any rebuttal?

21 MR. NEIER: Your Honor --

22 THE COURT: Yes.

23 MR. NEIER: Your, your Honor, are we going to take
24 examination of witnesses at some point?

25 THE COURT: Well, that's the question. I've, I've

1 heard discussion, but I haven't heard anyone asking about
2 witnesses.

3 MR. NEIER: Your Honor, I'd like an opportunity to
4 examine both witnesses on behalf of the asbestos claimants.
5 It's David Neier for the asbestos claimants.

6 THE COURT: All right.

7 The only thing, folks, it's now 5:00 and we're obliged
8 to be out of this building by 6:00. So we're going to have to
9 do what we can today and we may not finish.

10 So don't mean to hamstring you, Mr. Neier, but those
11 are the practical realities of what we're doing, so.

12 Did anyone else have anything by way of argument that
13 did not involve examination? I'm just asking now.

14 (No response)

15 MR. NEIER: And, your Honor, I would expect my, my
16 witnesses to take, you know, five, ten minutes, each --

17 THE COURT: Okay.

18 MR. NEIER: -- at most.

19 THE COURT: All right. Mr. Neier, who did you want to
20 ask?

21 MR. NEIER: First, I'd like to call Mr. Pittard.

22 THE COURT: Okay.

23 Is Mr. Pittard on the line?

24 MR. PITTARD: Yes, I'm here, sir.

25 THE COURT: All right. Mr. Pittard, if you'll raise

PITTARD - CROSS

115

1 your right hand, since we are not physically present.

2 RAY PITTARD, CLAIMANTS' WITNESS, ADMINISTERED OATH

3 CROSS EXAMINATION

4 BY MR. NEIER:

5 Q Good afternoon, Mr. Pittard. My name is David Neier.

6 Do you have a copy of your declaration handy?

7 A I can get it. I have, I have an electronic copy I can pull
8 up.

9 Q Okay.

10 A Give me one moment here.

11 Okay.

12 Q Okay, great.

13 Now, Mr. Pittard, you've been a Vice President of the
14 debtors since the, the corporate transaction on May 1, 2020, is
15 that correct?

16 A Yes, that's correct.

17 Q And you've worked for Trane, Ingersoll Rand, various
18 affiliates since 1988, for over 30 years, is that correct?

19 A Yes, that's correct.

20 Q And with respect to the May 1 transaction, could you turn
21 to Annex 1 of your affidavit?

22 A Annex --

23 Q That's the -- that's the -- that's the chart.

24 A That's the chart. Okay. Give me a moment.

25 Q Okay. I think it may be on Page 22 of 61 of the PDF.

PITTARD - CROSS

116

1 A Okay.

2 I have it. Okay.

3 Q So, Mr. Pittard, as part of the transaction you see the
4 gray box that's labeled Aldrich Pump LLC and that's the debtor
5 in this case, Aldrich Pump, is that correct?

6 A That's correct.

7 Q And that's why it's gray, is that right?

8 A Yes. 'Cause it highlights it at the bottom. It says it's
9 the debtor.

10 Q And that entity has the asbestos-related claims that were
11 formerly part of the, the prior entities, is that correct?

12 A That has part of it. I think Murray Boiler, also. There
13 is Aldrich Pump, which is Ingersoll Rand New Jersey, Old IR,
14 and Old Trane is Murray Boiler, the other gray box.

15 Q We're going to get to that in a minute.

16 A Okay.

17 Q With respect to all the other liabilities of those
18 entities, they -- the -- those liabilities are now in the white
19 box that's directly to the right of the gray box Aldrich Pump,
20 is that right, Trane Technologies Company LLC

21 A That's, that's correct. That's correct.

22 Q And, and now let's go to the, the other transaction that
23 you were referring to, which also took place on, on May 1.

24 With respect to Murray Boiler, that's the other gray box on
25 this chart, is that right?

PITTARD - CROSS

117

1 A Yes, that's correct.

2 Q And that's the, that's the other debtor in this case, is
3 that right?

4 A That's, that's correct.

5 Q And once again, Murray Boiler has all of the asbestos
6 liabilities that existed for all of the other entities other
7 than the ones we just talked about with respect to Aldrich
8 Pump, is that correct?

9 A Yes, that's correct.

10 Q And the, the remaining liabilities, that is, the
11 liabilities to other creditors other than asbestos liabilities,
12 those are in the white box that is at the other end of that
13 arrow leading into the gray box, that is, Trane U.S. Inc.. Do
14 you see that?

15 A Yes, I believe so. That's correct, I believe.

16 Q And would you agree with the statement made by Mr. Erens
17 earlier that you made the, or the, the entities made the
18 determination that chapter 11 would be a better option than the
19 tort system in these cases?

20 A The, the board of directors made a decision after
21 deliberation to select chapter 11, as, as explained.

22 Q And when you say "the board of directors," which board of
23 directors?

24 A The Aldrich Pump board of directors in that case and the
25 Murray Boiler board of directors.

PITTARD - CROSS

118

1 Q And who made the determination to enter into the divisional
2 transaction, the divisional merger, on May 1, 2020?

3 A Those were recommendations that were presented by outside
4 counsel and internal counsel and that was decided through the,
5 the Trane Technologies Company.

6 Q Okay. So the, the Trane Technologies Company made the
7 determination to enter into the transaction?

8 A Yes.

9 Q And they made, they made the determination to go into the
10 transaction so that these entities could file chapter 11, is
11 that correct?

12 A No, that's not correct. They made the decision to seek
13 more flexibility in how we address the asbestos liability, as
14 explained by Mr. Erens.

15 Q So you're saying that these companies went into the
16 divisional merger and filed bankruptcy within 30 days, 31 days,
17 something like that, but there was no intent on the part of the
18 companies at the time that the divisional merger was entered
19 into to file a bankruptcy case and to seek TRO and a
20 preliminary injunction?

21 A No. During that time there was deliberation by the boards
22 repeatedly on the options and alternatives and those boards
23 made independent decisions to, to proceed with the chapter 11,
24 but alternatives were looked at.

25 Q Okay. How about with respect to other liabilities of these

PITTARD - CROSS

119

1 companies? Did they make any determinations with respect to
2 those liabilities, that they would retain those liabilities?

3 A I'm not sure what liabilities you refer to.

4 Q The non-asbestos liabilities. They retained those
5 liabilities, correct?

6 A I think the liabilities that Aldrich and Murray have are,
7 primarily, related to, to asbestos, if I understand? I'm not
8 sure I follow your question, I guess.

9 Q Yeah. I'll try and make it a little clearer.

10 Can you go to Paragraph 14 of your affidavit?

11 A Paragraph 14. Give me a moment.

12 Q And first we'll do the Aldrich Restructuring.

13 A Sure.

14 Okay. Paragraph 14.

15 Q So I would direct your attention to Paragraph 14(c).

16 A Correct.

17 Q It says, "Aldrich was allocated certain of the Old IRNJ's
18 assets" --

19 What does that stand for, by the way?

20 A That's Ingersoll Rand New Jersey, Old Ingersoll Rand.

21 Q Uh-huh (indicating an affirmative response).

22 -- "as set forth below, and became solely responsible for
23 certain of its liabilities, including the asbestos claims
24 against Old IRNJ and the defense of those claims," you see
25 that?

PITTARD - CROSS

120

1 A That is correct.

2 Q And then go to the next paragraph, Paragraph (d) below
3 that.

4 A Correct, okay.

5 Q And it says, "New Trane Technologies was allocated all
6 other assets of Old IRNJ and became solely responsible for all
7 other liabilities of Old IRNJ," is that correct?

8 A That's correct. That's correct.

9 Q And is that your understanding of the transaction?

10 A That's my understanding of the transaction.

11 Q And you're saying that at the time that you went into this
12 divisional merger there was no intent to file a subsequent
13 bankruptcy on behalf of the new entity, Aldrich Pump, is that
14 correct?

15 A What I'm saying was we were seeking flexibility and we
16 wanted to set this up to give ourselves options to look at the
17 best way to resolve it.

18 So the boards met and looked at those options and the
19 option that was chosen at the end was the chapter 11 filing.
20 So that's, that's all I know.

21 Q So it was on the table?

22 A At the time there was, flexibility was on the table, but
23 there was no options predefined.

24 Q Can we agree that with respect to Murray Restructuring it's
25 the same setup, Paragraph (c) and (d), also in Paragraph 14 of

PITTARD - CROSS

121

1 your declaration --

2 A Yes.

3 Q -- that Murray became solely responsible for the asbestos
4 liabilities and New Trane was allocated all the other assets
5 and liabilities, is that correct?

6 A That's correct.

7 Q All right. Thank you.

8 MR. NEIER: I have no further questions, your Honor.

9 THE WITNESS: Okay.

10 THE COURT: Any other questions of this witness? Any
11 party?

12 (No response)

13 THE COURT: Any redirect?

14 (No response)

15 THE COURT: All right. Thank you.

16 MR. TORBERG: No, your Honor. This is David Torberg.
17 No redirect. Thank you.

18 THE COURT: Thank you.

19 MR. NEIER: Your Honor, hopefully, we can get through
20 Mr. Tananbaum just as quickly.

21 THE COURT: Okay.

22 Mr. Neier, go ahead.

23 Mr. Tananbaum, let me get you sworn, first. If you'll
24 raise your right hand.

25 ALLAN TANANBAUM, CLAIMANTS' WITNESS, ADMINISTERED OATH

TANANBAUM - CROSS

122

1 THE COURT: All right, very good.

2 Please proceed.

3 CROSS-EXAMINATION

4 BY MR. NEIER:

5 Q Good afternoon, Mr. Tananbaum.

6 MR. NEIER: Oops, okay. We lost him.

7 THE WITNESS: A little too much --

8 BY MR. NEIER:

9 Q Lean back.

10 A A little bit too much sun. Apologies.

11 Q No problem.

12 I would ask, also, do you also have your declaration handy?

13 A I do. I printed out a clean copy and I have it in my
14 hands.

15 Q Okay. That's good.

16 Mr. Tananbaum, you're the Chief Legal Officer of the
17 debtors since the May 1, 2020 transaction that created them, is
18 that correct?

19 A That's correct.

20 Q And you, you like -- I'm sorry. You okay?

21 A Yeah. Just controlling the sun. Sorry.

22 Q Okay. And you still work for the, the Trane entities, the
23 non-debtor Trane entities, is that correct?

24 A That's correct.

25 Q You and, and Mr. Pittard are both seconded to the debtors

TANANBAUM - CROSS

123

1 for the, the length of these cases, is that correct?

2 A That's correct.

3 Q And you've worked for Trane Technologies for 15 years,

4 since January of 2005, is that correct?

5 A That's correct.

6 Q And as the Chief Legal Officer you're responsible for the

7 defense and the resolution of all the asbestos-related claims

8 against the debtors, is that correct?

9 A Yes, that's correct.

10 Q And would you agree that -- I don't want to repeat what

11 just happened with Mr. Pittard because I think it's pretty

12 clear now -- that all of the asbestos-related claims have been

13 allocated to the debtors and all the other liabilities, non-

14 asbestos liabilities have been retained by the other Trane and,

15 Trane entities, is that correct?

16 A That, that's correct, along with the asbestos-related

17 assets which went to Aldrich and Murray with the liabilities.

18 Q Uh-huh (indicating an affirmative response). But the other

19 liabilities went with the non, or were retained by the

20 nondebtors. Only the asbestos-related entities, only the

21 asbestos-related claims were assigned to the debtors, is that

22 correct?

23 A That's correct.

24 Q Okay.

25 MR. NEIER: I may be done, your Honor. Just give me

TANANBAUM - CROSS

1 one second.

2 THE COURT: Take a moment.

3 (Pause)

4 BY MR. NEIER:

5 Q Did you have any role in the, in the, the corporate
6 restructuring transaction?

7 A Not as such. I'm not a corporate transactional lawyer and
8 the, the restructuring was accomplished via internal and
9 external corporate M&A attorneys.

10 Q Okay. And who were those corporate M&A attorneys?

11 A Well, you've got the Jones Day team that has, has
12 identified itself at the hearing and, and as well as some
13 internal staff as well.

14 Q And did they represent the, the non-debtor Trane-Ingersoll
15 Rand entities at the time of the corporate transaction, the
16 divisional merger?

17 A Yeah, that's accurate.

18 Q Okay.

19 MR. NEIER: Your Honor, I have no further questions.

20 THE COURT: Other parties of this witness?

21 MR. TORBERG: Nothing for the debtor, your Honor.

22 THE COURT: Anyone?

23 (No response)

24 THE COURT: All right

25 Thank you. If you were standing, you can step down, .

1 but we're --

2 Any other evidence?

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: Any other witnesses to be called,
5 Mr. Neier?

6 MR. NEIER: Not by, not by me, your Honor.

7 THE COURT: Anyone else wishing to present evidence?

8 (No response)

9 THE COURT: Okay.

10 All right. Any -- and I think I've already previously
11 called for anyone else who wanted to make arguments in
12 opposition to the motion.

13 So I guess it goes back to the debtor at this point
14 for, for rebuttal, if, if desired.

15 Mr. Erens?

16 MR. ERENS: Yes, your Honor. Yes, we would like to do
17 rebuttal. Your Honor, I'll try to keep it relatively brief,
18 given the hour 'cause I know you do have some time limitations.

19 We heard a tremendous amount of material from
20 Ms. Ramsey. The reality is we've all heard it before. We've
21 heard all of those arguments in the Bestwall case. They were
22 all rejected by Judge Beyer. Now the matter is on appeal, but
23 we do have a decision in the Bestwall case that addresses all
24 of those issues and they were all rejected for all the same
25 reasons that I indicated at the beginning, your Honor, that you

1 should enter the TRO. If we're going to have a legitimate
2 bankruptcy, your Honor, the claims have to be in this case.
3 They can't be litigated throughout numerous courts across the
4 country. That would eviscerate the stay and the purpose of the
5 bankruptcy case.

6 But I do want to address a couple of specific items
7 that came up in, I think, most of Ms. Ramsey's presentation,
8 but also maybe a couple others. So one was the reference to
9 the RMT Transaction. The facts of the RMT Transaction are
10 somewhat complicated, but the most important point is, your
11 Honor, that transaction was announced in early 2019. It has
12 nothing to do with the divisional merger and the ultimate
13 filing of these bankruptcy cases. That transaction was in the
14 works year, well, more than a year before and as we even heard,
15 it deposited \$1.9 billion of cash into the Trane Technologies
16 family. So that have that cash. That cash is available to try
17 to cut a deal. As we've said from the beginning, our goal in
18 this case is to reach a resolution with the plaintiffs. We are
19 here to negotiate. They seem to be here to fight and to
20 object, but we are here to negotiate to reach a resolution that
21 will be good for everyone. We think that is exactly what
22 524(g) entails.

23 Secondly, there was continued discussion about the
24 funding agreement. I, I addressed that at the beginning of the
25 presentation. I want to address it, again. There's this

1 allegation that's completely untrue that language in the
2 funding agreement gives the nondebtors the ability to control
3 the case, that, for instance, only a plan that they like can be
4 confirmed in this case. That is not the case at all, your
5 Honor. Matter of fact, in the Owens Illinois case, which is
6 not in your jurisdiction but is in Delaware, I do believe the
7 equivalent agreement to a funding agreement, similar type of
8 case, is this does say that the only case that would be funded
9 would be one that's acceptable to the non-debtor entities.
10 That's not the case, your Honor.

11 Again, the provision that keeps coming up is very
12 simple, which is if there is going to be a deal between the
13 debtors, the payors under the funding agreement, and the
14 plaintiffs, it's going to be a consensual deal. It's going to
15 be a 524(g) deal and the clarification in the agreement is if
16 the nondebtors are going to pay through the funding agreement,
17 they should be released as part of the plan. Apparently, the
18 plaintiffs are contemplating some scenario which seems
19 fantastic to at least me, your Honor, that we would spend all
20 this time negotiating a deal, the funders would pay money into
21 a trust, and then the plaintiffs could then, later then pursue
22 them, again. That would not be a deal. Of course, the
23 nondebtors would not have a reason to deal. And if the
24 plaintiffs didn't agree to the amounts that the funders were
25 planning on putting into the trust, they wouldn't vote for the

1 plan. So there wouldn't be a deal, either.

2 So the scenarios that are being raised by Ms. Ramsey
3 and the like are not scenarios that ever are going to exist.
4 Our goal is to get a deal and that deal, like all other cases,
5 will involve, to the extent the numbers justify, payments under
6 the funding agreement and it would be appropriate at that time
7 for the nondebtors to get a 524(g) release for that
8 contribution. I think somebody once in this hearing said that
9 there was a recent plan where there was no 524(g) release for
10 nondebtors. They also said there was no funding. Well, of
11 course, if there's no funding, then there's no need for a
12 524(g) injunction for the nondebtors.

13 But if the nondebtors are going to fund the plan, of
14 course, they're entitled to a 524(g) release and that's common,
15 commonplace in 524(g) reorganizations.

16 Now your Honor will have some time at some point to
17 look at the funding agreement, yourself, and, of course, if
18 your Honor believes that there's a problem with the funding
19 agreement, we would address it. But the, the hysteria that's
20 being thrown out with respect to the funding agreement is way
21 overdone. There's no intent to change the purpose of the
22 funding agreement from the prior cases.

23 So as another example, if your Honor ruled through
24 estimation or otherwise that the amount that needed to be
25 funded in a plan in this case was "X," okay --

1 THE COURT: Uh-huh (indicating an affirmative
2 response).

3 MR. ERENS: -- and that went through all of the, the
4 litigation that's necessary for that, the funding agreement
5 provides that the funding has to be there for that, for that
6 liability. So it's not that, you know, the number has to be
7 acceptable to the nondebtors. That's just simply not the case
8 at all.

9 But again, your Honor, if, if you found in the funding
10 agreement provisions that you found to be unclear or
11 unacceptable, we, of course, would deal with that with your
12 Honor and the plaintiffs, but that's simply not the case in the
13 current funding agreements.

14 Another thing that Ms. Ramsey, I think, said was that
15 there was some implicit threat in our Information Brief that we
16 were going to seek estimation in this case, promptly. Well, we
17 are going to try to seek estimation in this case promptly or
18 some liability determination because what's happened in the
19 other cases is the plaintiffs keep complaining that the cases
20 aren't moving. We don't want to be accused of not moving this
21 case. Now if we sit down with the plaintiffs and there's a
22 deal to be discussed and they would prefer that we put off
23 estimation or some type of liability determination, of course,
24 we would have that discussion. But the most important part is
25 we do not want to be accused of not moving this case and,

1 matter of fact, in the Bestwall case there's a motion pending
2 by the ACC that seeks to dismiss the case for failure to
3 prosecute the case. Well, we never want to be accused of not
4 promptly prosecuting this case and that's why we want to move
5 this case for the benefit of all parties, including the
6 plaintiffs. The plaintiffs are not benefitting by the case
7 lingering in chapter 11. That's why we want to move the case
8 as promptly as possible.

9 Couple of other things that came up, your Honor, with
10 respect to insurance. There was a variety of statements. I'm
11 not sure I understood all of them. But as I said, your Honor,
12 insurance is an asset of this estate. Seeking to gain access
13 to the debtors' insurance for the reasons that are set forth in
14 our motion is clearly a violation of the automatic stay. It's
15 an attempt to obtain control of property of the estate and,
16 therefore, is enjoined under section 362(a)(3) of the
17 Bankruptcy Code.

18 So we, we see no basis not to provide the insurance
19 parties with protected party status or ultimately find that the
20 plaintiffs should not be able to access the debtors' assets
21 through the insurance because that will reduce the assets
22 available for the reorganization.

23 There were some statements made about delay with
24 respect to the four factors, that, that delay by claimants
25 causes harm to them. Of course, it causes some harm to them.

1 We are not unsympathetic to the plaintiffs in this case, far
2 from it. But again, your Honor, it's important to understand
3 that these plaintiffs do sue numerous parties. They are
4 collecting from numerous parties, from other tort defendants,
5 and from trusts.

6 So while, again, we'd like to move the case and get
7 them compensated as soon as possible, it is just simply not the
8 case that, for instance as being alleged, that they're getting
9 no compensation because this case will be pending. That's
10 simply not the case.

11 I think, your Honor, in closing, 'cause, again, I
12 didn't want to make too long of an argument, Ms. Ramsey
13 admitted this at the very end. I think this is very telling.
14 She said, you know, we understand we're asking for
15 extraordinary relief to deny the TRO because it's never been
16 denied in other cases. Because as we indicate in our
17 pleadings, every single case where it's been asked in an
18 asbestos context, the PI has been approved. Every single case
19 where the TRO has been requested, it has been approved. I know
20 it's still pending in the DBM case, DBMP case.

21 So what is being asked by the plaintiffs in this case,
22 or the objectors, is really extraordinary relief, which is to
23 allow a bankruptcy to exist and, notwithstanding, all the
24 claims in the bankruptcy are going to start being litigated
25 throughout various courts in the federal and court, federal and

1 state court system throughout the country. That is not a
2 typical bankruptcy case. That is in violation of Robins.
3 Robins makes the point from Fourth Circuit law, going back to
4 the 1980s, that when third-party litigation puts undue pressure
5 on the debtor, which is what Ms. Ramsey's intent would be, or
6 it interferes with the reorganization effort it should be
7 enjoined, whether it's just simply should be enjoined or it
8 should be enjoined based on the four factors that we laid out
9 in our pleadings and discussed previously.

10 With that, your Honor, if you have any specific
11 questions 'cause I know a lot came up in the presentations,
12 especially --

13 THE COURT: Uh-huh (indicating an affirmative
14 response).

15 MR. ERENS: -- in Ms. Ramsey's, we'd be happy to
16 answer any specific questions.

17 THE COURT: All right. Thank you, for now.

18 Anyone else?

19 Ms. Ramsey?

20 MS. RAMSEY: Your Honor, could I have a very brief
21 opportunity to respond?

22 THE COURT: Go ahead.

23 MS. RAMSEY: I'm only going to make two short points,
24 your Honor. The first is there was an interesting, I think,
25 slip of, of the tongue here with respect to no plan funder

1 would -- would -- nobody -- no funder would dedicate assets if
2 they weren't going to get relief. But that's inconsistent with
3 what we keep hearing from the debtors, which is the funding
4 agreements are assets of the debtors, that, that give them
5 unfettered access to be able to pay. And now what we're
6 hearing is, "Well, no, it's not really an asset of the debtor.
7 It's a contribution of a kind by, by a third party, a
8 nondebtor."

9 So this -- this -- this effort to sort of weave in
10 some sort of allegation that, that it's really not an asset of
11 the debtor unless we say it is because we really are trying to
12 buy relief and, and I think that's the -- it's, it's a pay-to-
13 play kind of structure that your Honor should not, should not
14 endorse.

15 The, the other point, your Honor, is, is I, I don't
16 believe that there's hysteria around the funding agreement. I
17 think, I think the point is that the funding agreement this
18 time changed. There's never been a reorganization like this.
19 None of them have been successful yet. There have been no
20 deals. There have been, you know, there's been one decision
21 and we challenged that and, as I said, it, it is on appeal.

22 But, your Honor, these reorganizations continue to
23 come. These structures continue to come. We believe that this
24 is a different enough structure this time by reason of the
25 changes to the funding agreement to justify this Court entering

1 a different type of decision than was previously entered on the
2 TRO in DBMP. And, your Honor, I do not believe there was a
3 effort to contest the, the entry of the TRO in, in Bestwall,
4 but simply the preliminary injunction.

5 Thank you, your Honor.

6 THE COURT: Anyone else?

7 (No response)

8 THE COURT: Well, I wish I had had the benefit of
9 having all those thoughts over the weekend, but I did not and I
10 was in court this morning. So while I read the responses that
11 were filed by the objecting parties, I did so hurriedly and
12 there's quite a bit to digest here. It would be sufficient to
13 say that, from what I did in DBMP, that, and as alluded to, I
14 have some concerns about these transactions. The combination
15 of the divisional merger, the trip to North Carolina. I
16 understand Ingersoll Rand. I went to Davidson. I know where
17 it is. The, but the bottom line is from Delaware corporation
18 to Texas corporation to debtors filing as North Carolina
19 corporations here and, and the advent of, of this, and I
20 understand how this all came up. I'm concerned about the
21 transactions and the propriety of what we're doing and to that
22 end, I, in DBMP I did what I'm going to do now, which is to say
23 I feel the obligation to grant the, the TRO, but with a full
24 understanding that the preliminary injunction's going to
25 require a good bit more.

1 Now the COVID virus and the shutdowns and all that
2 affected our time in DBMP. So we haven't had those hearings
3 yet and we've been forced to enter the preliminary injunction
4 with a savings clause. I hope we don't have those kinds of
5 delays now.

6 The bottom line is I question whether this is what
7 Congress intended when they created 524(g). It's not a
8 Manville situation and generally, when enterprise integrity is
9 threatened by claims and assets are limited it appears to me
10 that Congress envisioned that 524(g) would be a vehicle where
11 the corporation could come in, subject its assets and
12 transactions to, to scrutiny, and then with the cooperation of
13 the asbestos creditors come up with a, a trust and a plan under
14 that vehicle.

15 This is something less than that. I understand why
16 the entities, Trane, Ingersoll Rand, would feel that it would
17 be a unnecessary burden to, to bring the entire enterprise into
18 a bankruptcy context for getting this relief. I question
19 whether this can be obtained in the absence of, of that
20 excursion or whether or not it is appropriate under the
21 circumstances absent the support of the creditor body.

22 At the same time because we are on the first day of
23 the case and we need some time for all to react and to get a,
24 the creditors' committee, the asbestos creditors' committee
25 formed, I feel obliged to enter the TRO on the same terms as

1 before, before the 14-day provision. As noted, bankruptcy
2 courts generally do so in these circumstances, but these
3 circumstances are different than what has been attempted before
4 and as I had understood it, most of the fighting in Bestwall at
5 the outset of the case, at least, was over whether or not the
6 case was subject to dismissal under the Carolyn standards, not
7 with less attention focused on the, the TRO.

8 You're going to be lucky if you can get me to be
9 consistent with myself, much less with Judge Beyer. So you're
10 going to have to forgive me. I have not been sitting in the
11 room listening to all those arguments. So I'm going to have to
12 take my cases as, as they come up and judicial independence
13 means that I may or may not agree with what was done there.

14 So the bottom line is I'm going to grant the TRO as
15 requested. I think I need to do it, the way I read the Rule is
16 that I have to do it for 14 days, renew for 14 more if there's
17 cause, and then, beyond that, we have to start talking about a
18 preliminary injunction. I question whether we can get a
19 committee formed in that time period and, frankly, given my
20 other two cases with Kaiser on for confirmation in July and
21 DBMP up for some hearings as well, of whether we're going to be
22 able to get a full-blown preliminary injunction hearing held in
23 the time periods we're talking about.

24 But for now, I think the best thing I can do is put
25 the TRO in place with full reservations of rights and

1 arguments. Don't take, take this as going to be written in
2 stone forever because I have grave concerns about what's being
3 proposed here.

4 We will -- I can get you back in court at least on a
5 TRO basis for an extension. Looks like -- we are here on the
6 22nd -- I can have a hearing on July the 1st, if you all are
7 not looking for exact compliance or if we tie the order from,
8 from when it's entered, which would probably be tomorrow,
9 anyway, I could also do this, I think, on July the 6th. I have
10 July the 8th and 9th available as well.

11 So I'm open for suggestions at this point. If
12 there's --

13 MR. MACLAY: The 1st and the 6th both work for me,
14 your Honor.

15 THE COURT: Okay.

16 Anyone got problems on either of those days?

17 MR. ERENS: Your Honor, from the debtors' perspective,
18 the 6th would probably be a better date.

19 THE COURT: Uh-huh (indicating an affirmative
20 response).

21 MR. ERENS: Again, the reason we were asking for the
22 28 days was to give the committee time. I'm like you. I don't
23 know exactly, you know, how long it's going to take them to be
24 formed, but giving a little bit more time would be beneficial.

25 THE COURT: Ms. Abel, perhaps you would have an

1 opinion on this. You've already started soliciting the
2 committee, correct?

3 MS. ABEL: Yes, your Honor. I just wanted to fill in
4 the gaps on that front. We have requested that responses be
5 provided to my office this Friday, which would be the 26th of
6 June.

7 THE COURT: Right.

8 MS. ABEL: And it's my intention to put a motion on
9 for your Court's, your consideration by Monday or Tuesday of
10 the following week, which would mean that the motion could be
11 filed on the 29th or the 30th, and depending on how much notice
12 you think would be appropriate under the circumstances, my
13 office is available for any of the dates proposed.

14 THE COURT: Okay. Well, let's, let's use the 6th.
15 That's a Monday.

16 Madam Clerk, can you double check me on this and make
17 sure that I'm not --

18 THE COURTROOM DEPUTY: You're open.

19 THE COURT: -- double booking.

20 THE COURTROOM DEPUTY: You're open.

21 THE COURT: We had a matter, but I think it was
22 cancelled, so. All right.

23 So, in any event, everyone's on the East Coast at this
24 point in time, Chicago being the, the farthest west so far?
25 I'm just wondering whether we start at 9:30 or whether 10:30 or

1 something else would be better. Any thoughts?

2 MR. ERENS: 10:30 would be fine, your Honor.

3 THE COURT: Okay. Let's try 10:30 on the 6th.

4 Now the, if the parties that announce -- I, I realize
5 that with as many unnamed and unnoticed parties to the
6 adversary we have, it's hard to get a consensus, but if those
7 who are actually participatory feel like that that would be,
8 that exercise would be a waste of time and want to extend it a
9 further two weeks, we can try to do something. The big problem
10 there is that would put us in the middle of the Kaiser
11 confirmation hearing and as Judge Beyer has a conflict with
12 this case, we're limited in, in what our options are there.

13 So it's up to you folks as to, to where we come with
14 that, but we're going to have problems getting the next
15 hearing, is what I'm telling you. There's -- the only day I
16 see open right now is the 15th. So maybe we could do something
17 else on the, on the 17th. But again, that's a DBMP day.

18 But everything else for the rest of the month is
19 pretty much booked up and so if we're going to have to have a
20 lengthy evidentiary hearing, we're going to have some problems.
21 Don't want to encourage anyone to use that for a tactical
22 advantage, but, but the reality is, as I've said in the other
23 cases, this is a two-judge court. It is very easy to overload
24 us and with four or five of these cases pending at the same
25 time, that's, that's quickly becoming what's happening.

1 So for now, let's just talk about it as being July the
2 6th, at 10:30.

3 Can I get the debtors to notice a, a continued
4 hearing? Or maybe we treat it as a motion for extension, but I
5 want some sort of notice to go out at least to the primary
6 firms that are involved in this that we will have a further
7 hearing on the 6th.

8 MR. ERENS: We'll do that, your Honor.

9 THE COURT: Okay.

10 Anything else?

11 (No response)

12 THE COURT: Well, it's a complex situation and I
13 appreciate how you've come to terms with it so quickly and for
14 the quality of the, the hearing today, given that we're on the
15 first day. You've given me a lot to think about and we'll talk
16 about it further in detail. But for now, I feel like that we
17 at least need to maintain the status quo, even though it's a
18 status quo of only six weeks duration, to get this thing slowed
19 down enough so that we can get a good presentation and, and a
20 decision that you can stand on. 'Cause I'm sure that this at
21 some point will go up on appeal and I want you to have a, the
22 Circuit or the District Court to have a good, clean look at it,
23 all right?

24 Anything else?

25 If not, we'll recess.

1 MR. CODY: Your Honor, it's Mark Cody.

2 Just to follow up on some of the, the, the hearings,
3 the subsequent hearings for at least certain of the pleadings
4 we filed.

5 THE COURT: Right.

6 MR. CODY: Would it make sense for us to reach out to
7 your clerk's office, your clerks to try to pick an agreeable
8 date --

9 THE COURT: Well, while we're all --

10 MR. CODY: -- to send out a notice?

11 THE COURT: While we're here, Mr. Cody, why don't we
12 talk for a moment about the needs --

13 MR. CODY: Sure.

14 THE COURT: -- of the case. We got the TRO situation.
15 What kind of exigencies do you, do you anticipate? How quickly
16 do you need to come back?

17 MR. CODY: We have -- pardon me a second here. Just
18 looking for the list of the things. We have a number of
19 pleadings that we filed with our initial package that, that we
20 didn't hear today, given the, there was an, an emergency need
21 to have them heard, but those, those would be the, the initial
22 set of pleadings that we would, we would anticipate getting,
23 having heard by your, by your Honor --

24 THE COURT: Uh-huh (indicating an affirmative
25 response).

1 MR. CODY: -- which would be something, you know,
2 looking at the way you described your schedule, the July 15th
3 date might, might work. It's not -- it shouldn't take a long
4 time to cover those off as a practical matter for, for at least
5 those pleadings and then, after that, I, I suspect we'll be
6 able to gauge what comes down.

7 THE COURT: For that first day, do you anticipate more
8 than a half a day's worth of hearings? I know you can't
9 anticipate --

10 MR. CODY: No.

11 THE COURT: - the, the objections, but --

12 MR. CODY: I, I don't expect that, your Honor --

13 THE COURT: Okay.

14 MR. CODY: -- given the nature of what we're asking.

15 THE COURT: For those who --

16 MR. CODY: They appear to be --

17 THE COURT: -- who are new to being with us, what
18 we've been trying to do, recognizing that Judge Beyer and I
19 can't keep the same people tied up in two different courts at
20 the same time, I have been working the DBMP hearings around
21 Kaiser days and that's what this would be. That also, back
22 when we were all traveling to these hearings, the idea was to
23 save some travel time and cost and burden for all of your
24 folks.

25 The 15th works fine for me for that first one.

1 Does anyone else have problems?

2 (No response)

3 THE COURT: Okay.

4 If you don't mind, let's set that on at 9:30, though,
5 so that since I have Kaiser the next day and we're in the, in
6 the rollup to the confirmation hearing, I suspect -- that's the
7 day of the Truck claim objection as well, I believe.

8 So let's start at 9:30 on the 15th.

9 MR. CODY: Okay.

10 THE COURT: Now -- all right. And beyond that, are
11 you looking for something, a day in August?

12 MR. CODY: Yeah. If there's something your Honor has
13 that we could target, we would, we'd get something on the, on
14 the schedule and then we can evaluate it during --

15 THE COURT: Okay. This one, I think --

16 MR. CODY: -- (indiscernible) bring it up if nothing
17 pops.

18 THE COURT: Again, y'all will have to help me out,
19 those who are in Bestwall. I have Kaiser on the 13th, DBMP on
20 the 14th. Judge Beyer has the 20th with Bestwall. I could
21 certainly give you the 21st, if you want that. That's a
22 Friday.

23 THE COURTROOM DEPUTY: Bestwall is for that day as
24 well.

25 MR. CODY: That would work for the debtors, your

1 Honor.

2 THE COURT: Bestwall's a two day? Okay.

3 Bestwall's got that one tied up, apparently.

4 MR. CODY: Okay.

5 THE COURT: So we don't want to -- we could go the
6 other way. The 12th is available and I believe the preceding
7 week, we at one time were talking about having the DBMP
8 preliminary injunction hearing the week of the 3rd through the
9 7th and we have moved to September on that. So that week is
10 free at the moment.

11 And as well, maybe the local attorneys can help me out
12 here. With most of the RNC going to Jacksonville, the, the
13 24th through the 26th, we thought, was going to be unavailable.
14 I'm not sure if Downtown's still going to be locked down or
15 not. We still have some business meetings that are being held
16 here and I'm not sure what the security plan is.

17 But potentially, the, if not those days, the 27th
18 would be available in August as well. That's a Thursday.

19 MR. CODY: Your Honor, August the 12th would,
20 considering we'd be in front of you on the 15th of July, maybe
21 August 12th would, would work --

22 THE COURT: How about --

23 MR. CODY: -- (indiscernible) your time.

24 THE COURT: How about for the local attorneys? That's
25 Judge Beyer's chapter 11 day and I'm not sure if that'll create

1 any havoc there but if y'all think we can work around that,
2 that, that'd be -- just make three days of it.

3 MR. CODY: Your Honor, we'd be amenable to the end of
4 the month as well. It's -- it's -- we're not trying to
5 create --

6 THE COURT: Well, it's the same --

7 MR. CODY: -- havoc.

8 THE COURT: -- same problem. The asbestos bar is
9 relatively small and so is my chapter 11 --

10 MR. CODY: Okay.

11 THE COURT: -- bar and I don't like having people that
12 need to be in two places at once.

13 Let's take August 27th, instead, and, and clear that
14 conflict, so. All right? And again, we'll make this one 9:30
15 Eastern time on that.

16 MR. CODY: Okay. Thank you.

17 THE COURT: All right. Is that enough to start you
18 off or do we need to go into September as well?

19 MR. CODY: That should get us started, your Honor.
20 Thank you.

21 THE COURT: Okay, very good.

22 Anything else we need to discuss today?

23 (No response)

24 THE COURT: All right. Thank you very much.

25 We will recess at this point.

1 MR. ERENS: Thank you, your Honor.

2 THE COURT: Uh-huh (indicating an affirmative
3 response).

4 (Proceedings concluded at 5:40 p.m.)
5
6
7
8

9 CERTIFICATE

10 I, court approved transcriber, certify that the
11 foregoing is a correct transcript from the official electronic
12 sound recording of the proceedings in the above-entitled
13 matter.

14 /s/ Janice Russell

June 25, 2020

15 Janice Russell, Transcriber

Date
16
17
18
19
20
21
22
23
24
25